

United States
Circuit Court of Appeals
For the Ninth Circuit.

MURRELL F. HAID,

Appellant,

vs.

UNITED STATES OF AMERICA,

Appellee.

Transcript of Record

Upon Appeal from the District Court of the United States
for the Western District of Washington,
Southern Division

FILED

MAR 27 1946

PAUL P. O'BRIEN,
CLERK

No. 10978

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Circuit Court of Appeals
For the Ninth Circuit.

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

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COUNSEL OF RECORD

J. CHARLES DENNIS,

United States Attorney.

HARRY SAGER,

Assistant United States Attorney,

234 Federal Building, Tacoma, Washington,

Attorneys for Plaintiff-Appellee.

BERTIL E. JOHNSON,

205 Rust Building, Tacoma, Washington,

Attorney for Defendant-Appellant.

United States District Court, Western District of
Washington, Southern Division

July Term, 1944

No. 15668

UNITED STATES OF AMERICA,
Plaintiff,
vs.

MURRELL F. HAID,
Defendant.

Violation: Section 76, Title 18, United States Code

INDICTMENT

United States of America,
Western District of Washington,
Southern Division—ss.

The grand jurors of the United States of America, being duly selected, impaneled, sworn, and charged to inquire within and for the Southern Division of the Western District of Washington, upon their oaths present: [1*]

Count I.

That Murrell F. Haid, whose true name other than as given is to these grand jurors unknown, hereinafter called the defendant, on or about and between the dates of April 1, 1943, to December 31, 1943, at Olympia, Washington, then and there being, did then and there knowingly, wilfully, unlaw-

* Page numbering appearing at foot of page of original certified Transcript of Record.

fully and feloniously and with the intent then and there in him to defraud Mrs. Ruth McConkey and the United States of America, did falsely assume and pretend to be an officer and employee of the United States of America, acting under the authority thereof, and acting in such pretended character did demand and obtain from Mrs. Ruth McConkey things of value, to-wit, employment as an investigator, and sums of money, the exact amount of which being to these grand jurors unknown; contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

And the grand jurors aforesaid, upon their oaths aforesaid, do further present:

Count II.

That Murrell F. Haid, whose name other than as herein given is to these grand jurors unknown, hereinafter called the defendant, on or about and during the months of January and February, 1944, the exact dates being to these grand jurors unknown, at Olympia, Washington, then and there being, did then and there knowingly, wilfully, unlawfully and feloniously and with the intent then and there in him to defraud Gertrude Highmiller, and the United States of America, did falsely assume and [2] pretend to be an officer and employee of the United States of America, acting under the authority thereof, and did then and there take it upon himself to act as such officer and employee, in that

he called upon and interviewed the said Gertrude Highmiller; contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

And the grand jurors aforesaid, upon their oaths aforesaid, do further present:

Count III.

That Murrell F. Haid, whose name other than as given herein is to these grand jurors unknown, hereinafter called the defendant, on or about and between the dates of April 1, 1943, and December 31, 1943, at Olympia, Washington, then and there being, did knowingly, wilfully, unlawfully and feloniously, and with the intent then and there in him to defraud Elizabeth Mathwig and Ralph Mathwig and the United States of America, did falsely assume and pretend to be an officer and employee of the United States of America acting under the authority thereof, to-wit, a Special Agent, Federal Bureau of Investigation, Department of Justice, and acting in such pretended character did then and there demand and obtain from the said Elizabeth Mathwig and Ralph Mathwig, certain things of value, to-wit, a quantity of drugs, the exact nature or description thereof being to the grand jurors unknown, and certain sums of money, the exact amount thereof being to these grand jurors unknown; contrary to the form of the statute in such case made and provided and against the peace and [3] dignity of the United States of America.

And the grand jurors aforesaid, upon their oaths aforesaid, do further present:

Count IV.

That Murrell F. Haid, whose name other than as given herein is to these grand jurors unknown, hereinafter called the defendant, on or about April 3, 1944, at Olympia, Washington, then and there being, did then and there knowingly, wilfully, unlawfully and feloniously, and with the intent then and there in him to defraud C. H. Canfield and Laura Canfield, and the United States of America, did falsely assume and pretend to be an officer and employee of the United States of America acting under the authority thereof, to-wit, a Special Agent, Federal Bureau of Investigation, and acting in such pretended character did then and there demand and obtain from the said C. H. Canfield and Laura Canfield, money in the sum of \$100.00; contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

And the grand jurors aforesaid, upon their oaths aforesaid, do further present:

Count V.

That Murrell F. Haid, whose true name other than as given is to these grand jurors unknown, hereinafter called the defendant, on or about August 17, 1943, at Woodland, Washington, then and there being, did then [4] and there knowingly, wilfully,

unlawfully and feloniously, and with the intent then and there in him to defraud Everett Stuart and the United States of America, did falsely assume and pretend to be an officer and employee of the United States of America, acting under the authority thereof, to-wit, a United States Marshal, and acting in such pretended character did then and there demand and obtain from the said Everett Stuart certain things of value, to-wit, an automobile tire and tube, without having or surrendering a ration certificate entitling him to obtain the same; contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

And the grand jurors aforesaid, upon their oaths aforesaid, do further present:

Count VI.

That Murrell F. Haid, whose true name other than as herein given, is to these grand jurors unknown, hereinafter called the defendant, on or about and during the month of April, 1943, the exact time being to these grand jurors unknown, at or near Olympia, and within Thurston County, Washington, then and there being, did then and there knowingly, wilfully, unlawfully and feloniously and with the intent then and there in him to defraud Mrs. Mary Lillibridge and the United States of America, did falsely assume and pretend to be an officer and employee of the United States of America, acting under the authority thereof, to-wit, a

Special Agent, Federal Bureau of Investigation, Department of Justice, and acting in such [5] pretended character did then and there demand and obtain from the said Mary Lillibridge certain things of value, to-wit, the rental and occupancy of a residence and the installation and use of a telephone therein; contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

And the grand jurors aforesaid, upon their oaths aforesaid, do further present:

Count VII.

That Murrell F. Haid, whose name other than as herein given is to these grand jurors unknown, hereinafter called the defendant, on or about and between June 1, 1944, and July 31, 1944, the exact time being to these grand jurors unknown, at Olympia, Washington, then and there being, did then and there knowingly, wilfully, unlawfully and feloniously and with the intent then and there in him to defraud S. Irene Nelson and the United States of America, did falsely assume and pretend to be an officer and employee of the United States of America, acting under the authority thereof, to-wit, a Special Agent, Federal Bureau of Investigation, Department of Justice, and did then and there take it upon himself to act as such officer and employee aforesaid, in that he ordered and purchased from the said S. Irene Nelson, a certain camera for use in his assumed and pretended

office and employment aforesaid; contrary to the form of the statute in such case [6] made and provided and against the peace and dignity of the United States of America.

(Signed) J. CHARLES DENNIS,
United States Attorney.

(Signed) HARRY SAGER,
Assistant United States At-
torney. [7]

Presented to the Court by the Foreman of the Grand Jury in open Court, in the presence of the Grand Jury, and Filed in the U. S. District Court Nov. 21, 1944. Millard P. Thomas, Clerk. By Gladys Chitty, Deputy. [8]

RECORD OF PROCEEDINGS

At a regular session of the United States District Court for the Western District of Washington, held at Tacoma, in the Southern Division thereof on the 29th day of November, 1944, the Honorable Charles H. Leavy, U. S. District Judge presiding, among other proceedings had were the following, truly taken and correctly copied from the Journal record of said court.

[Title of Cause.]

ARRAIGNMENT AND PLEA

Now on this 29th day of November, 1944, this cause comes on before the court for arraignment

and plea. Harry Sager, Asst. U. S. Attorney, represents the government and P. C. Kibbe and Bertil E. Johnson represent the defendant. Defendant in court and states his true name is Murrell F. Haid. On oral motion of Mr. Johnson, the court requires the government to furnish information to the defendant by Bill of Particulars as to what agency or office the defendant represented himself to be in Counts One and Two. The government is allowed an exception to the above ruling. Defendant is now arraigned and defendant and counsel waive reading of Indictment. Defendant now enters a plea of not guilty to Counts 1, 2, 3, 4, 5, 6 and 7 and cause is set for trial on January 2, 1945.

[Title of District Court and Cause.]

VERDICT

We, the jury empanelled in the above-entitled cause, find the defendant, Murrell F. Haid:

Not guilty as charged in Count I of the Indictment herein;

Not guilty as charged in Count II of the Indictment herein;

Is guilty as charged in Count III of the Indictment herein;

Is guilty as charged in Count IV of the Indictment herein;

Is guilty as charged in Count V of the Indictment herein;

Not guilty as charged in Count VI of the Indictment herein;

Not guilty as charged in Count VII of the Indictment herein.

Dated this 8th day of January, 1945.

/s/ CHESTER R. JORGENSEN,
Foreman.

[Endorsed]: Filed Jan. 8, 1945. [10]

[Title of District Court and Cause.]

MOTION FOR NEW TRIAL

Comes now the defendant, Murrell F. Haid, and moves this Honorable Court on the records and files herein for an order granting him a new trial in the above-entitled action upon the following grounds:

I.

That there was not sufficient evidence of a violation of Section 76, Title 18 U. S. C. to authorize the submission to a jury of any issue contained in Count Five of the indictment and the Court erred in submitting said issue to the jury.

II.

That the Court erred in overruling defendant's motion for dismissal of said Count Five and for

a directed verdict of not guilty on Count Five, to all of which this defendant duly excepted.

III.

That the verdict of the jury on Count Five was contrary to the evidence.

IV.

That the Court erred in permitting in evidence, over the objection of this defendant that the same was incompetent calling for a conclusion and opinion and irrelevant and immaterial, the [11] testimony of the witness Everett Stuart to the effect that he believed that the defendant was a Special Agent of the Federal Bureau of Investigation or that he was a United States Marshal.

V.

That there was not sufficient evidence of violation of Section 76, Title 18 U. S. Code to authorize the submission to a jury of any issue contained in Count Four of the indictment and that the Court erred in submitting the issue to the jury.

VI.

That the Court erred in dismissing defendant's motion for dismissal of said Count, all of which defendant duly excepted.

VII.

That the verdict of the jury on Count Four was contrary to the evidence.

VIII.

That the Court erred in admitting in evidence, over the objection of the defendant that the same was incompetent, irrelevant and immaterial, the testimony of the witness, Laura Canfield, to the effect that she believed the defendant to be an agent of the F. B. I., same being the opinion of said witness, to all of which this defendant duly excepted.

IX.

That the Court erred in admitting in evidence, over the objection of this defendant, the testimony of the witness, Walter Canfield, to the effect that Laura Canfield had always called the defendant "the detective F. B. I." on the grounds that the same was not proper cross-examination and was incompetent as hearsay, irrelevant and immaterial to the issues of Count Four and to all of which this defendant duly excepted. [12]

X.

That there was not sufficient evidence of a violation of Section 76, Title 18 U. S. C. to authorize the submission to a jury of any issue contained in Count Three of the indictment and the Court erred in submitting said issue to the jury.

XI.

That the Court erred in overruling defendant's motion for dismissal of said Count Three and for a directed verdict of not guilty on Count Three, to all of which this defendant duly excepted.

XII.

That the verdict of the jury on Count Three was contrary to the evidence.

XIII.

That the Court erred in admitting in evidence, over the objection of the defendant that the testimony of the witnesses, Ralph Mathwig and Elizabeth Mathwig, to the effect that they believed the defendant to be an agent of the Federal Bureau of Investigation or an employee of the United States on the grounds that the same is incompetent, calling for an opinion and conclusion and upon the further ground that it was irrelevant and immaterial, to all of which this defendant duly excepted.

XIV.

That the Court erred in denying the motion of the defendant for a mistrial at the time that the juror, Mrs. Olga McCool, advised the Court that she was acquainted with one of the witnesses for the Government, she having theretofore and during her examination as to her qualifications to be a juror and prior to the time that the defendant had exhausted his pre-emptory [13] challenges, she had stated that she was not acquainted with any of the witnesses names were read or with any of the persons named in the indictment.

XV.

That the Court committed numerous errors in ruling upon the admissibility of evidence and in ruling upon the various motions made by this de-

fendant, all of which were highly prejudicial to this defendant and duly excepted by him.

BERTIL E. JOHNSON,
Attorney for Defendant.

Copy received this 11th day of January, 1945.

(Signed) HARRY SAGER,
Attorney for Plaintiff.
L. H. B.

[Endorsed]: Filed Jan. 11, 1945. [14]

RECORD OF PROCEEDINGS

At a regular session of the United States District Court for the Western District of Washington, held at Tacoma, in the Southern Division thereof on the 20th day of January, 1945, the Honorable Charles H. Leavy, U. S. District Judge, presiding, among other proceedings had were the following, truly taken and correctly copied from the Journal Record of said Court:

[Title of Cause.]

Now on this 20th day of January, 1945, this cause comes on for hearing on motion for new trial. Harry Sager, Asst. U. S. Attorney, represents the government. Defendant in court represented by Counsel Bertil E. Johnson. Argument on motion for new trial by Mr. Johnson. The court denies motion for new trial and exception allowed. Defendant Comes forward for sentence.

Remarks by Mr. Johnson, the defendant and the court. Thereupon, it is the judgment of the court that the defendant having been found guilty by a jury, is guilty and is sentenced to a penal institution designated by the attorney general for the period of 18 months on each of Counts 3, 4 and 5, said sentences to run concurrently. The court fixes bond in the amount of \$3000.00 in case of appeal. Written Judgment and Sentence to be signed on Monday, January 22, 1945. [15]

United States District Court, Western District of
Washington, Southern Division

No. 15668

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MURRELL F. HAID,

Defendant.

JUDGMENT AND SENTENCE

Comes now, on this 22nd day of January, 1945, said defendant, Murrell F. Haid, into open court with his attorneys, Bertil E. Johnson and P. C. Kibbe, for sentence, after having been found guilty of the offense charged in Counts 3, 4 and 5 of the Indictment herein by verdict of a jury duly and regularly empaneled to hear the said cause, and being informed by the court of the charges herein

against him and of his conviction of record herein, he is asked whether he has any legal cause to show why sentence should not be passed and judgment had against him, and he having made a statement in his own behalf which was considered by the court,

Wherefore, by reason of the law and the premises, it is

Ordered and Adjudged by the court that the said defendant, upon the verdict of the jury is guilty as charged in Counts 3, 4 and 5 of the Indictment herein, and that he be committed to the custody of the Attorney General of the United States of America for imprisonment in such penal institution as the Attorney General of the United States or his authorized representative may by law designate for the period of Eighteen (18) months on each [16] of counts 3, 4 and 5 of the Indictment herein, said sentences to run concurrently with each other, and not consecutively.

And the said defendant is hereby remanded into the custody of the United States Marshal for this District for delivery to the Warden, Superintendent or other person in charge of such institution as the Attorney General of the United States may by law designate, for the purpose of executing said sentence. This judgment and sentence for all purposes shall take the place of commitment, and be recognized by the Warden or Keeper of any Federal Penal Institution as such.

Done in Open Court this 22nd day of January, 1945.

(Signed) CHARLES H. LEAVY,
United States District Judge.

Presented by:

(Signed) GUY A. B. DOVELL,
Assistant United States At-
torney.

Violation of: Section 76, Title 18, United States Code.

[Endorsed]: Filed Jan. 22, 1945. [17]

[Title of District Court and Cause.]

NOTICE OF APPEAL

Name and Address of Appellant: Murrell F. Haid, 417 Cushing Street, Post Office Box 462, Olympia, Washington.

Name and Address of Appellant's Attorney: Bertil E. Johnson, 505 Rust Building, Tacoma 2, Washington.

Offense: Violation of Section 76, Title 18, United States Code.

Date of Judgment: January 22, 1945.

Brief Description of Judgment: That the defendant is guilty of the crime of violation of Section 76, Title 18, United States Code as charged in Counts Three, Four and Five of the indict-

ment; that he be imprisoned in such penal institution as the Attorney General of the United States, or his representative, by law may designate for a period of eighteen (18) months on each of Counts Three, Four and Five of the indictment, said sentences to run concurrently with each [18] other and not consecutively.

Name of Prison Where Now Confined If Not on Bail:

On bail.

I, the above-named appellant, do hereby appeal to the United States Circuit Court of Appeals for the Ninth Circuit from the judgment above-mentioned on the grounds set forth below.

(Signed) MURRELL F. HAID.

Dated: January 26, 1945.

GROUND OF APPEAL:

I.

That there was not sufficient evidence of a violation of Section 76, Title 18 U. S. C. to authorize the submission to a jury of any issue contained in Count Five of the indictment and the Court erred in submitting said issue to the jury.

II.

That the Court erred in overruling defendant's motion for dismissal of said Count Five and for a directed verdict of not guilty on Count Five, to all of which this defendant duly excepted.

III.

That the verdict of the jury on Count Five was contrary to the evidence.

IV.

That the Court erred in permitting in evidence, over the objection of this defendant that the same was incompetent, calling for a conclusion and opinion, and irrelevant and immaterial, [19] the testimony of the witness, Everett Stuart, to the effect that he believed that the defendant was a Special Agent of the Federal Bureau of Investigation or that he was a United States Marshal.

V.

That there was not sufficient evidence of violation of Section 76, Title 18, U. S. Code to authorize the submission to a jury of any issue contained in Count Four of the indictment and that the Court erred in submitting the issue to the jury.

VI.

That the Court erred in dismissing defendant's motion for dismissal of said Count, all of which defendant duly excepted.

VII.

That the verdict of the jury on Count Four was contrary to the evidence.

VIII.

That the Court erred in admitting in evidence, over the objection of the defendant that the same was incompetent, irrelevant and immaterial, the

testimony of the witness, Laura Canfield, to the effect that she believed the defendant to be an agent of the F. B. I., same being the opinion of said witness, to all of which this defendant duly excepted.

IX.

That the Court erred in admitting in evidence, over the objection of this defendant, the testimony of the witness, Walter Canfield, to the effect that Laura Canfield had always called the defendant "the detective F. B. I." on the grounds that the same was not proper cross-examination and was incompetent as hearsay, irrelevant and immaterial to the issues of [20] Count Four and to all of which this defendant duly excepted.

X.

That there was not sufficient evidence of a violation of Section 76, Title 18 U. S. C. to authorize the submission to a jury of any issue contained in Count Three of the indictment and the Court erred in submitting said issue to the jury.

XI.

That the Court erred in overruling defendant's motion for dismissal of said Count Three and for a directed verdict of not guilty on Count Three, to all of which this defendant duly excepted.

XII.

That the verdict of the jury on Count Three was contrary to the evidence.

XIII.

That the Court erred in admitting in evidence, over the objection of the defendant that the testimony of the witnesses, Ralph Mathwig and Elizabeth Mathwig, to the effect that they believed the defendant to be an agent of the Federal Bureau of Investigation or an employee of the United States on the grounds that the same is incompetent, calling for an opinion and conclusion and upon the further ground that it was irrelevant and immaterial, to all of which this defendant duly excepted.

XIV.

That the Court erred in denying the motion of the defendant for a mistrial at the time that the juror, Mrs. Olga McCool, advised the Court that she was acquainted with one of the witnesses for the Government, she having theretofore and during her examination as to her qualifications to be a juror [21] and prior to the time that the defendant had exhausted his preemptory challenges, she had stated that she was not acquainted with any of the witnesses' names that were read or with any of the persons named in the indictment.

Copy received this 26th day of January, 1945.

(Signed) J. CHARLES DENNIS,
United States Attorney.

(Signed) HARRY SAGER,
Assistant United States
Attorney.

[Endorsed]: Filed Jan. 26, 1945. [22]

[Title of District Court and Cause.]

ORDER EXTENDING TIME FOR LODGING,
SETTLEMENT AND FILING OF BILL OF
EXCEPTIONS AND ASSIGNMENT OF
ERRORS.

This matter having come on regularly for hearing before the Court upon a motion for an order fixing the time for lodging and filing of appellant's proposed bill of exceptions and filing of appellant's assignments of errors and the Court being fully advised, it is hereby

Ordered that the appellant shall serve upon the appellee the transcript of the testimony of the proceedings herein on or before the first day of May, 1945, and that appellant shall lodge with the Clerk of the above-entitled Court on or before the first day of August, 1945, his proposed bill of exceptions herein and the appellee shall file its proposed amendments to the proposed bill of exceptions on or before the 1st day of October, 1945. It is further

Ordered that the said bill of exceptions shall be settled before the above-entitled Court on or before the 10th day of October, 1945. It is further

Ordered that the appellant herein shall file his assignment of errors on or before the first day of August, 1945.

Done in Open Court this 19th day of February,
1945.

Presented by:

(Signed) BERTIL E. JOHNSON,
Attorney for Appellant.

/s/ CHARLES H. LEAVY,
United States District Judge.

Approved:

(Signed) HARRY SAGER,
Assistant United States Atty.

[Endorsed]: Filed Feb. 20, 1945. [23]

At a Stated Term, to-wit: The October Term,
1944, of the United States Circuit Court of Appeals
for the Ninth Circuit, held in the Court Room
thereof, in the City and County of San Francisco,
in the State of California, on Monday, the twenty-
third day of July in the year of our Lord one thou-
sand nine hundred and forty-five.

Present: Honorable Francis A. Garrecht, Cir-
cuit Judge, Presiding; Honorable William Healy,
Circuit Judge; Honorable Homer T. Bone, Cir-
cuit Judge.

[Title of Cause.]

ORDER EXTENDING TIME TO LODGE PRO-
POSED BILL OF EXCEPTIONS, ETC.

Upon consideration of the stipulation of counsel

for the respective parties, filed July 21, 1945, and good cause therefor appearing,

It is Ordered that the time to lodge the proposed Bill of Exceptions and to file Assignments of Error be extended to September 1, 1945, and that the time to lodge Amendments thereto and to settle said Bill of Exceptions be extended to October 15, 1945.

(Reverse Side)

I Hereby Certify that the foregoing is a full, true and correct copy of an original Order made and entered in the within-entitled cause.

Attest my hand and the seal of the United States Circuit Court of Appeals for the Ninth Circuit, at the City of San Francisco, in the State of California, this 23d day of July, 1945.

/s/ PAUL P. O'BRIEN,
Clerk, U. S. District Court of Appeals for the Ninth Circuit.

[Endorsed]: Filed July 25, 1945. [24]

At a Stated Term, to-wit: The October Term, 1944, of the United States Circuit Court of Appeals for the Ninth Circuit, held in the Court Room thereof, in the City and County of San Francisco, in the State of California, on Friday, the twenty-eighth day of September, in the year of our Lord one thousand nine hundred and forty-five.

Present: Honorable Clifton Mathews, Circuit Judge Presiding; Honorable William Healy, Circuit Judge; Honorable Homer T. Bone, Circuit Judge.

[Title of Cause.]

ORDER EXTENDING TIME TO PROPOSE
AMENDMENTS TO BILL OF EXCEP-
TIONS, AND TO SETTLE BILL OF EX-
CEPTIONS.

Upon consideration of the stipulation of counsel for respective parties, and good cause therefor appearing,

It Is Ordered that the time to lodge proposed amendments to the bill of exceptions, and to have said bill of exceptions settled and filed be, and hereby is extended to and including November 15, 1945.

(Reverse Side)

I Hereby Certify that the foregoing is a full, true, and correct copy of an original Order made and entered in the within-entitled cause.

Attest my hand and the seal of the United States Circuit Court of Appeals for the Ninth Circuit, at the City of San Francisco, in the State of California, this 28th day of Sept., 1945.

/s/ PAUL P. O'BRIEN,
Clerk, U. S. Circuit Court of Appeals for the Ninth
Circuit.

[Endorsed]: Filed Oct. 3, 1945. [25]

[Title of District Court and Cause.]

PRAECIPE FOR PORTIONS OF RECORD TO
BE INCORPORATED INTO TRANSCRIPT
OF RECORD ON APPEAL.

To the Clerk of the Above-Entitled Court:

You are hereby requested to prepare the following portions of the record and to incorporate such portions into the transcript on appeal in the above-entitled cause, to-wit:

1. Indictment.
2. Your minutes reflecting the arraignment and plea of not guilty to all counts of the indictment by the defendant, Murrell F. Haid, on November 29, 1944.
3. Your docket entry of January 8, 1945, reflecting the verdict of the jury and the trial of the defendant in the above-entitled action.
4. Defendant-Appellant's motion for new trial filed January 11, 1945.
5. Your complete minute entries showing the denial of the defendant's motion for new trial.
6. Judgment and sentence.
7. Notice of appeal of defendant Haid filed January 26, 1945.
8. Order dated February 19, 1945, extending the time for filing proposed Bill of Exceptions and Assignment of Errors. [26]
9. All orders of the Circuit Court of Appeals

filed with you which extended the time for lodging, filing and settling appellant's proposed Bill of Exceptions and for filing Assignment of Errors.

10. Assignment of Errors.

11. This praecipe.

(Signed) BERTIL E. JOHNSON,
Attorney for Appellant.

Copy received this 27th day of December, 1945.

(Signed) J. CHARLES DENNIS,
United States Attorney.

(Signed) By: HARRY SAGER,
Assistant United States
Attorney.

[Endorsed]: Filed Dec. 27, 1945. [27]

[Title of District Court and Cause.]

PRAECIPE FOR EXHIBITS TO BE INCLUDED IN THE TRANSCRIPT OF RECORD OF APPEAL.

To the Clerk of the Above-Entitled Court:

You are hereby requested to include the following designated exhibits in the transcript on appeal in the above-entitled cause, to-wit:

Plaintiff's Exhibits Nos. 1, 2, 3, 4, 5, 7, 8, 11, 14, 15, 16, 18, 19, 22, 23, 31 and 32.

/s/ J. CHARLES DENNIS,
United States Attorney.

/s/ HARRY SAGER,
Assistant United States
Attorney.

Copy received this 5th day of January, 1946.

BERTIL E. JOHNSON, EMC,
Attorney for Defendant-
Appellant.

[Endorsed]: Filed Jan. 5, 1946. [28]

[Title of District Court and Cause.]

ORDER

This matter coming before the Court upon the Stipulation of the parties hereto in reference to exhibits being forwarded to the Circuit Court of Appeals for the Ninth Circuit; and, it appearing to the Court that the parties hereto have stipulated that certain exhibits should be forwarded to the Circuit Court of Appeals for the Ninth Circuit and be made a part of the transcript of record on appeal; Now, therefore, it is hereby

Ordered that the Clerk of this Court transmit as a part of the record the original exhibits to the Circuit Court of Appeals for the Ninth Circuit, to-wit:

Plaintiff's Exhibits 1 to 8, inclusive, 11, 14 to 19, inclusive, 22, 23, 31 and 32,

and

Defendants Exhibits A-1, A-2, A-4, A-10, A-12, A-13, A-16, A-17, A-18, A-23, A-24, A-25, A-26, A-27, and A-31.

Done in Open Court this 21st day of January, 1946.

/s/ CHARLES H. LEAVY,
United States District Judge.

Presented by:

/s/ BERTIL E. JOHNSON,
Attorney for Defendant.

[Endorsed]: Filed Jan. 21, 1946. [29]

[Title of District Court and Cause.]

TRANSCRIPT OF DOCKET ENTRIES

1944.

Nov. 21 Filed Indictment.

Nov. 21 Ent. order fix. bond \$1000 (Bond in #15650 to apply).

No. 29 Deft. in court with counsel. Ent. order, on oral motion deft., Govt. to furnish Bill of Particulars re Cts. 1 & 2; exception allowed.

Ent. arr. & plea "Not Guilty," all 7 cts. Set for trial Jan. 2.

Dec. 4 Filed Bill of Particulars.

Dec. 7 Filed Praecipe, US Issued 15 subp.

1945.

- Jan. 2 Deft. in court with counsel. Ent. record trial commenced—jury—Judge Leavy presiding.
- Jan. 3 Ent. record trial resumed.
- Jan. 4 Ent. record trial resumed.
- Jan. 5 Ent. record trial resumed.
- Jan. 6 Ent. record trial resumed.
- Jan. 8 Ent. record trial resumed.
Filed Verdict (at 11:40 PM): “Guilty Cts. 3, 4 & 5”—“Not Guilty Cts. 1, 2, 6 & 7).
Ent. order deft. enlarged present bail pend. Motion New Trial.
- Jan. 11 Filed Motion for New Trial.
- Jan. 12 Motion New Trial noted for Jan. 15, 1:30 PM.
- Jan. 12 Filed Notice re hear. Motion New Trial.
- Jan. 13 Filed Stip. & Order ret. Exh. A-20 (FBI badge) and receipt therefor.
- Jan. 15 Motion for New Trial passed to Jan. 20.
- Jan. 20 Deft. in court with counsel.
Ent. order Motion New Trial denied; exception allowed;
Ent. Judgm. and Sentence: 18 mos. US Pen. (concur. on Cts. 3, 4 & 5); written J & S Jan. 22; appeal bond fixed at \$3000.

1945

- Jan. 22 Deft. in court with counsel.
 Filed Judgm. and Sentence (18 mos. US
 Pen. (concur on Cts. 3, 4 & 5).
 Ent. order appeal bond reduced to \$2000.
 Filed Bond on Appeal (\$2000 cash).
- Jan. 26 Filed Notice of Appeal.
 Copy Notice of Appeal & statement of
 docket entries transmitted to Clerk, C.
 C. A.; notice given Judge Leavy of No-
 tice of Appeal.
- Feb. 20 Filed Order extend. time to lodge Bill
 of Ex. (to 10/1/45) & to settle & file Bill
 of Ex. & Assign. Errors (to 10/10/45).
- July 25 Filed cert. copy Order of CCA extend.
 time to 9/1/45 to lodge proposed Bill of
 Ex. & file Assign. Errors, and to 10/15/45
 to lodge Amendments & settle Bill. [30]
- Sept. 1 Filed Assign. of Errors.
 Lodged Appellant's proposed Bill of Ex-
 ceptions.
- Oct. 3 Filed cert. cop. Order of CCA extend.
 time to Nov. 15 to settle Bill of Ex.
- Nov. 2 Lodged Appellee's proposed Am. to Bill
 of Ex.
- Nov. 15 Ent. record hear. re settle. Bill of Ex.
 Filed & ent. Judge's Certificate re allowed
 Bill of Except. (consist. of Appellant's
 proposed Bill (1 vol.) and Appellee's pro-
 posed Bill (1 vol.).
 Filed Bill of Exceptions (as settled; 2
 vol. above named).

1945

Dec. 27 Filed Praecipe for Record on Appeal.

1946.

Jan. 5 Filed Praecipe US for inclus. of exhibits in appeal rec.

Jan. 8 Filed Affid. deft.

Jan. 8 Filed Order permit. deft. leave jurisdiction (to 1/24/46).

Jan. 21 Filed Stip. to transmit orig. exh.

Jan. 21 Filed Order transmit. orig. exhs. to CCA.

[Title of District Court and Cause.]

CERTIFICATE OF CLERK

I, Millard P. Thomas, Clerk of the United States District Court for the Western District of Washington, do hereby certify and return that the foregoing Transcript of the Record on Appeal, consisting of pages numbered 1 to 33, inclusive, is a full, true and correct copy of so much of the record, papers and proceedings in Cause No. 15668, United States of America, Plaintiff, vs. Murrell F. Haid, Defendant, as required by Praecipe of Defendant-Appellee, on file and of record in my office at Tacoma, Washington, and the same constitutes the Transcript of the Record on Appeal from the Judgment of the United States District Court for the Western District of Washington, Southern Division, to the United States Circuit Court of Appeals for the Ninth Circuit.

I do further certify that the original Bill of Ex-

ceptions, as certified by the Judge of the said District Court, and the original Assignment of Errors herein, are transmitted herewith.

I do further certify that pursuant to Order of the District Court the original exhibits, being Plaintiff's Exhibits numbered 1 to 8, inclusive, 11, 14 to 19, inclusive, 22, 23, 31 and 32, and Defendant's Exhibits numbered A-1, A-2, A-4, A-10, A-12, A-13, A-16, A-17, A-18, A-23, A-24, A-25, A-26, A-27, and A-31, are transmitted herewith. [32]

I do further certify that the following is a full, true and correct statement of all expenses, fees and charges incurred by me on behalf of the Defendant-Appellant herein in the preparation and certification of the said Transcript of the Record on Appeal to the United States Circuit Court of Appeals for the Ninth Circuit, to-wit:

Appeal fee	\$ 5.00
To Clerk's fee for preparing and certifying Transcript of Record.....	7.20
<hr/>	
Total	\$12.20

In Testimony Whereof, I have hereunto set my hand and affixed the seal of said Court, at the City of Tacoma, in the Western District of Washington, this 28th day of January, 1946.

[Seal] MILLARD P. THOMAS,
Clerk.

By EDGAR SCOFIELD,
Deputy. [33]

[Title of District Court and Cause.]

BILL OF EXCEPTIONS

Be It Remembered, That on to-wit this 2nd day of January, 1945, at the hour of 10:00 a. m., the above-entitled cause came on for hearing before the Honorable Charles H. Leavy, one of the Judges of the above-entitled court, at the United States Court House in Tacoma, Washington.

The plaintiff appeared by Harry Sager, Assistant United States Attorney.

The defendant appeared in person and by his attorneys, Bertil E. Johnson and P. C. Kibbe.

All parties having signified their readiness to proceed to trial, a jury was duly empaneled and sworn, and thereafter an opening statement for the Government was made by Mr. Sager.

Whereupon the following proceedings were had and testimony given, to-wit: [1*]

RUTH McCONKEY,

a witness called on behalf of the Plaintiff, after having been first duly sworn, testified as follows:

Direct Examination

By Mr. Sager:

My name is Ruth McConkey. I live at Olympia, at 1202 West 10th. I have a brother, Captain James Mathwig. He is a doctor in the Armed

* Page numbering appearing at foot of page of original Reporter's Transcript.

(Testimony of Ruth McConkey.)

Forces and has been in service since April before Pearl Harbor. He is in the Medical Corps. In the first part of 1943 he was still at Guadalcanal. He is married and at that time his family was living in a little house next to my mother out where they are building the hospital at Tumwater. That is a little west of Olympia. He has two little girls. They were 4 and 5 then and are 5 and 6 now.

I knew Mr. Haid about that time. My brother wrote a letter to me. I undertook to place the children in a home until he came back. That was all he asked. I went to the Prosecutor Lynch first and he said to get some evidence and present it in court and they would take definite action. In the meantime Mr. Lynch went into the Navy, I believe, and all of this was turned over to Levi Johnson. He is the assistant, or acting Prosecuting Attorney of Olympia, and when I told him all the evidence we had and showed all the checks and letters and things he said there was a new detective in town and for me to hire him and have him get the evidence. That is what I did. I went to the police station and they gave me Mr. Haid's card. I think I 'phoned him and we made an appointment and he came out at ten. That was in April and I believe it was the 23rd of April in forty-three. He came out almost immediately when I called him. I outlined to him over the telephone briefly the purpose of my call and we did not wish to discuss it over the telephone so he came to the house. At the house I told him just what I did, about the Prosecuting

(Testimony of Ruth McConkey.)

attorney—all the evidence and my brother's letters and all those other things. He said he would get the evidence—what I showed him he figured I had enough to place the children in a home and that he would help me.

We talked for about an hour and then through that conversation he said—well, he sort of went back to his—why he was here and he just came here and remarked about the weather and said he came from Los Angeles. He said he was sent up here by the Government. He said he wanted to locate in Puyallup first but it was too far from Fort Lewis and he was working as a sort—what I would say, an under-cover man, that is the way he put it himself. He said, "Well, you know, Mrs. McConkey, there is a war on." He said that Fort Lewis has these great big contracts and things and that he was hired by the Government to over-see it. That is what he said to me at the house that morning. As to the nature of the work that he was doing he just said that it was—oh, like any other thing—that there was—well, just like crooked work. Well, I took his word. He showed me a gun and he showed me his badges and he showed me a black billfold with a lot of identifications but I couldn't tell you what was on it because I was so anxious at this time about the case I was not paying attention to it.

I would not say that Plaintiff's Identification 3 was the badge. It is darker colored and is tinny looking. The badge he showed me is smaller than

(Testimony of Ruth McConkey.)

this. It has the Eagle on it but I would say the Eagle is more pronounced. It said something on it about "Investigation" and that is all I remember, and it was written around the top. It was not like that around the bottom. He was wearing his gun and took it out. He just handled it. He did not hand it to me. It was a black gun quite long. He had handcuffs. He always wore them. He just said that he was sent up from Los Angeles. That was all he said to me. He said his work here was to be more or less at Fort Lewis. He said he worked until noon. His time at Fort Lewis took him until noon and he always came right after lunch and I asked him if he could work for me and charge \$20.00 a day how he expected to work for them and me too and he said the type of woman Margaret was—she evidently sleeps all day and works at night. Margaret is the wife of Captain Mathwig. She was the person he was supposed to get information about. When I asked him how he was going to be able to work for me he said just that he would work Sundays and evenings. Later on he wore the Army clothes he was required to wear. He said that it was Government regulations. The Army clothes he wore were not like my brother's, but he is a Captain. They are gray. They are more of a pinkish cast. He had a Government shirt with the short jacket like the bus drivers wear. I think he had four or six pairs of those.

During our first conversation Mr. Haid said as to the connection between his detective work and

(Testimony of Ruth McConkey.)

his government work, that his detective work was merely a cover-up for his real reason to be here. The real reason for his being here was that he was sent here to Fort Lewis to over-see Fort Lewis, his Government work. As to the nature or character of the work he was doing at Fort Lewis for the Government, he just said that he was to over-see large contracts like there was—well, big business—an over-seer. As to whether or not he could disclose his Government work he then said that it was confidential in war time. He just said that it was confidential. He showed me his credentials. They had a blue card. And then he had a card with a picture on it. That is all. I couldn't tell you what it said on it. He said he had come here from Los Angeles and he was sent here by the Government. On this first day I made arrangements for his employment. I was to pay him \$20.00 a day. He said it would take from six to eight days to take care of it. He said he would just get evidence. He was to get evidence in this matter with respect to my brother's children. He would submit the evidence to me from time to time. This employment continued until August 17th. During this time I would see him about every day, every afternoon or every evening. On the first occasion, I am not sure of the amount, I think I paid him either Fifty Dollars or a Hundred. There are two checks I notice they have "for retainment fee" and I am positive it was Fifty Dollars the first time and in a few days he was back and I gave him a check for a Hundred.

(Testimony of Ruth McConkey.)

When he called on me the first time he had a dark suit with an overcoat and a dark hat but later on, I would say about two weeks later he had the Army pinks on. He had on other parts of the uniform. He wore that frequently. He also carried handcuffs. He had his belt and he had a gun on one side and his handcuffs on the other. He showed me his gun on more than one occasion and after he had worked for me about two weeks he said he had to have his gun cut down for Government regulations and he had that done at Fort Lewis because Olympia was either too slow or he could go right into Fort Lewis. I just naturally didn't question him. He said the barrel was being cut down in length, to two-inch barrel or something like that.

On the various times I saw him he would mention Fort Lewis. He had either just come from Fort Lewis in a kind of a brisk way, in a hurry, you know. He did this a number of times, right in the beginning, especially. During the first conversations he said that in case he had to he could put a man behind the telephone and listen to telephone conversations to obtain evidence—we would need.

He finally recovered the children about August 17. At that time they were in Portland, Oregon. I went down there with him. On the way down, right out of Chehalis we blew out a tire and his jack would not work so he threw it in a ditch and he tried to stop a car and it would not stop and he

(Testimony of Ruth McConkey.)

pulled out a badge and it was a round badge which fitted in the palm of his hand and he said "that ought to do it" and he did stop a car and they let us have a jack. To stop the car he just flashed the badge on the car.

We obtained the children in Portland and brought them back the same night. Mr. and Mrs. Haid and myself were the only ones on the trip. He gave me a blue card and I went as a welfare worker. I went as a welfare worker at Mr. Haid's suggestion. He gave me this before we started. I don't remember why it was given to me—just that I went as a welfare worker. I was not engaged in welfare work. He gave me this blue card "This certifies" to indicate that I was a welfare worker. He signed it. I gave it back to him when we got back to Olympia. He asked for it.

On our way back from Portland we had another blow out. He did not stop. We drove on the tire until we came to a gas station at Woodland. Mr. Haid got out and went in and he talked a while and just came out and he said he did not have any money with him, evidently, because he borrowed \$20.00 from me to pay for the tire and then he said the tire was \$22.75 but I stayed out in the car as did Mrs. Haid. We did not hear the conversation. He got a tire and it was put on the car there. Plaintiff's Identification 4 is a card similar to the one he gave me when we started from Olympia. This is a blank card. The one he gave me was filled in "This is to Certify that Mrs. Ruth Mc-

(Testimony of Ruth McConkey.)

Conkey is an operator of this office and any courtesies extended to her will be appreciated" and it was signed by Mr. Haid. There was something on the card to say that I went as a welfare worker. That was written on the card in pen.

(Card admitted as Plaintiff's Exhibit 4.)

There was another incident on that trip. That is we were stopped by the police for speeding at Chehalis. Just like before I sat in the car but when he came back to the car he said "I had to do some tall talking to get out of that one." I don't know whether on that occasion he showed his billfold or his badge. I believe it was his badge, though. He did that just before he stepped out of the car.

I didn't get a statement from Mr. Haid for the amount I have paid him but my brother did. I asked him for a statement for the purpose of making up my brother's income tax and he gave me one. It is Plaintiff's Identification No. 5. This statement is in his handwriting. The upper portion of that statement represents the amount I paid him on this case. The other items are payments that he made for me to others. In carrying on this business with Mr. Haid for my brother I had a power of attorney and the money I paid Mr. Haid's was my brother's money. I did not pay him all at one time. I paid about, I would say it would be \$50.00 or something like that, whenever it was, because it amounted to twelve hundred and some dollars in three months. He would submit bills or statements to me from time to time. I paid by cash and checks,

(Testimony of Ruth McConkey.)

mostly checks. They were on my brother's account.

(Statement Admitted as Plaintiff's Exhibit 5.)

The first part of this exhibit says "Investigative matter for Captain James E. Mathwig, M.D., from May 23, 1943, to August 18, 1943. Total amount paid, expenses and salaries attached to investigation, \$1225.64" and then it says "Plus Margaret's debts in and around Olympia, Washington, \$500." This item of \$500 was not paid to Mr. Haid. Then there are other items for attorney's fees which I paid. Those other items total Eight Hundred dollars and they had nothing to do with the total of \$1225.65. The \$1225.64 is what I paid Mr. Haid, which I never questioned.

In addition to this money which I paid Mr. Haid from Capt. Mathwig's account, he borrowed from me a Hundred Dollars to the 10th of September. He said his Government check was slow and he wanted Two Hundred and I did not have it so I let him have a Hundred and in addition to this Hundred he came over and borrowed some more. He borrowed Twenty Dollars the first time and then he came over and borrowed Fifteen and then he borrowed Five and then I let him have Five on an electric range, and then he borrowed Forty. Plaintiff's Identification No. Six is the check of September 10th. I didn't have it at the time so I wrote it on my brother's account and Mr. Haid promised he would pay it back in thirty days. He didn't pay

(Testimony of Ruth McConkey.)

it back in thirty days and he wanted to know if I wanted a note and I said No, if your word is no good your check is no good. The check has never been paid. He never paid back the Hundred. He never paid any of the other sums I advanced.

(Check admitted as Plaintiff's Exhibit No. 6.)

Exhibit No. 6 is drawn upon my brother's account. I subsequently repaid it to my brother.

The employment of Mr. Haid with respect to the two children ceased on August 17 when we returned them. I didn't get a statement from Mr. Haid following that. We don't owe him anything. It was all paid up—up to, I imagine it must have been three days later that we paid him the last Hundred and Eighty. With respect to the Hundred Dollars I had a conversation with Mr. Haid about it about February 14, 1944. This conversation was at his house. He and Mrs. Haid were present, and my brother. And I had to show my brother what I did with his money so I took him over to Mr. and Mrs. Haid and asked Mr. Haid for the Hundred dollars and he said he didn't have it, that the Government was slow in paying him. I said, how can the Government be slow when you have to live, pay rent and everything, and he just didn't have it.

During this time Mr. Haid didn't have an awful lot to say about the hospital on my mother's place, just that with his connections he thought he could get it going. Mother offered it free, you know. He said that with his Government connections—that is

(Testimony of Ruth McConkey.)

all he would say. We didn't discuss it very much. He said concerning my brother and in connection with the hospital if we could bring my brother back—that if I would pay for 'phone calls and everything that with his connections he could bring him back and have him run the hospital. During this time the matter of these drugs came up. Mr. Haid did not say much about them only that he had buried them. That he had taken them and had them analyzed and buried. He buried them, that is all—Mr. Haid went out to get the drugs and got that statement from Altman and that is where the whole thing started. I think that is when he went out to mother's and got the box of drugs to see if there was dope in there. Altman was an X-Ray Technician for Fort Lewis. He is the man in question. After getting this statement from Mr. Altman, Mr. Haid told him that they were old drugs and that he took them out and buried them. That was the end of that. I didn't hear any more of it.

At one time he said something to me about accounting for his time. Just said that he had to account to the Government for his hours. At one time I went over to Mr. Haid's for the records on this matter. That was some time in November of '43. I asked him for the complete file, it was all paid for and everything and he said the papers belonged to the Government. He said, no one gets those, they belong to the Government. So I went to Mr. Trullinger the next day. After seeing Mr.

(Testimony of Ruth McConkey.)

Trullinger I again went back to see Mr. Haid and I didn't get them. He did not give them to me. He didn't say much about anything the second time and I thought I would just not get him mad or anything and let it go till my brother came home.

Q. Now, Mrs. McConkey, did you believe that he was a Government employee?

Mr. Johnson: Just a minute. Object to that. That is not the criterion of the charge herein laid. It is a question of representation, what representation was made.

The Court: I think in a case of this nature the question is proper and you may answer. It is the ultimate fact for this jury to say whether he did or did not represent himself as such.

Mr. Johnson: Her believing is not a criterion.

The Court: It is not conclusive on the jury whether he was or was not. It is a question of whether or not——

Mr. Johnson: I take exception on the Court's ruling of the matter. I disagree with the Court.

The Court: She may answer.

A. Yes, I would say I did.

Q. Did your belief that he was a Government man in any way influence your transactions?

Mr. Johnson: Same objection.

The Court: Objection overruled.

Mr. Johnson: Exception.

A. May I answer?

Q. Yes, you may answer. A. Yes.

(Testimony of Ruth McConkey.)

Cross-Examination

By Mr. Johnson:

I hired him as a private detective. That was the entire basis on which I hired him. I didn't hire him as an officer of the Government. My whole reason for hiring him was to represent me as a private detective to secure information for me.

My son-in-law worked for Mr. Haid. I believe it was in September and October. I didn't ask Mr. Haid to hire him as a private detective. I never discussed his employment with Mr. Haid. I knew that he was working as an operative for Mr. Haid. They were pretty secretive about their work. I don't know whether my son-in-law was paid by the day or the case. I didn't discuss with Mr. Haid that my son-in-law had no experience in investigative work and that I wanted him to get some experience.

We visited back and forth with the Haid's quite considerable, played cards with them. My brother's wife's name is Margaret. We first started on the investigation of the care of the children when my brother sent me a letter, I believe it was in October of '42. In January I went to Mr. Lynch, he was the prosecuting attorney of Thurston County, and then I talked to Mr. Levi Johnson, who is now the Acting Prosecuting Attorney, and Mr. Johnson told me that I had to have some evidence in order to take those children away from their mother and then I discussed with him the secur-

(Testimony of Ruth McConkey.)

ing of Mr. Haid. Mr. Johnson told me at that time that Mr. Haid was a private detective and that his work consisted entirely as a private detective and investigator. I understood that before I saw Mr. Haid. It was on the card. It was advertised in the paper. Defendant's Identification A-1 is the card. It is the card that Mr. Haid gave me the first day he came to my place.

(Card admitted as Defendant's Exhibit A-1.)

Defendant's Exhibit A-1 is a card similar to the one he gave me. It is not the exact card but it is just like it. He advertised in the newspaper in Olympia and I had seen the ads prior to the time I saw Mr. Haid. The ad set forth that he was a private detective and investigator. I have seen the ads as contained in defendant's identification A-2, being two newspapers. I did not see them prior to the time I employed Mr. Haid. I have seen advertisements like it since. I didn't notice them before I employed him. I didn't get him that way. I went to the police station. I never told Mr. Levi Johnson, when I went to see him that I had seen Mr. Haid's advertisement in the newspaper. I don't know how soon after I saw Mr. Haid, or how long after I saw Mr. Haid that I saw those advertisements in the newspaper.

(Newspaper admitted as Defendant's Exhibit A-2.)

When I talked to Levi Johnson he didn't tell me that Mr. Haid had done some work for his office.

(Testimony of Ruth McConkey.)

At no time, either on April 23rd or thereafter up to December, 1943, did Mr. Johnson make any statement to me to the effect that Mr. Haid had done some work for his office. Mr. Johnson didn't tell me that Mr. Haid had a good reputation and he would do a good job for me.

I am not complaining on the job he did. I never questioned the service for which he charged me. I would still have employed him if he had not told me about being connected with the Government. That was not the thing that determined my employment of Mr. Haid. I was hiring a private detective. That was solely the reason I was hiring him, but being a Government man gave him more prestige. If there had been no statement about him being a Government man I would still have hired him as a private detective.

When he came to see me the first day he came about 10 o'clock in the morning. It would be hard to recall what other mornings he came to see me. I don't know of ever being in his office before noon during the period of April 23 to August 17. I presume I have called him in the morning on a number of occasions. I couldn't say how many times I called him on the telephone before 12 o'clock. Most of the conversations were at night. I couldn't say as to the morning visits or the morning telephone calls I had with him during that period. He came to the house at noon. I must have called him sometimes in the morning but I haven't any recollection how often. I would say 8 times or so.

(Testimony of Ruth McConkey.)

I imagine it would be more than two occasions. I have never seen Mr. Haid in Levi Johnson's office. The attorney I had to represent me, or represent my brother in this matter was Mr. Armstrong, the Attorney General, and he resigned and then I had Mr. Trullinger. I never discussed this matter with Mr. Haid in Mr. Armstrong's office.

I loaned my son-in-law some money when he worked for Mr. Haid because he was out on a case. I knew he had a gun. I knew he had to have the gun because he was working for this detective agency. I knew he had taken a course back in Chicago by correspondence. Mr. Haid sent his name in and got \$5.00 for it.

After I talked to Mr. Levi Johnson about the private detective I called Mr. Haid. I had gone down to the police station and got his card. I had his 'phone number. When I went to the police station I saw a sergeant. I asked him if there was a private detective in town and he said yes. He told me Mr. Haid was a private detective. He reached over and got the card and gave it to me and after that I called Mr. Haid. I tried to get him a few mornings and didn't get him.

When I got him he was not at Fort Lewis. When he came to the house he was alone. He showed me his badge at that time but not right away. It was in a separate container, in a little round leather. I have never seen Defendant's Identification A-3 or one like it. The one I saw was black. In his credentials he had a card similar to Plaintiff's

(Testimony of Ruth McConkey.)

Identification 4 with him name on it. There was also one with a picture in it.

When he came out to my house that morning he told me that he was a private detective and investigator. He told me that he had come from Los Angeles. He didn't tell me that he had had a private detective agency in Texas. I didn't know that. He did not tell me that he worked for the Navy. He said he worked for the Government. He never told me that he worked for the Navy or that he worked for a defense plant that was operated for the Navy down in Los Angeles. He did not tell me what he had been doing prior to his going to Los Angeles. On this first visit he told me that he was working for the Government. He did not say definitely what job he was doing for the Government. I was so wrapped up in hiring him for the children, and he said more or less he was an under-cover man. Exactly as he said it, for Fort Lewis. He said there were big contracts there and he was an over-seer. Not an over-seer. He just said he was a Government man watching big contracts. That is all. He said they got these big orders and shipments and the Government had to have a man oversee them. He said he worked mornings at Fort Lewis. He did not say what hour he got through there. He said mostly noon. He did not tell me how long he had been employed in that work at Fort Lewis. At that first conversation he was there about one and a half hours. The first

(Testimony of Ruth McConkey.)

three quarters hour was about securing evidence concerning the children.

I imagine I hired him about that time but I can't remember when I gave him the money. Whether he went out and said "Mrs. Haid is in the car" and came in. It seems to me I paid him then. I didn't hire him when he first came to my place. I explained to him the whole thing what I wished him to do, then I hired him. I didn't hire him prior to the time that he told me anything about the Government. All of it just sort of balanced in. I just told him and he said he would get the evidence for me and it would take six to eight days. I think I hired him before he said anything about being employed by the Government. I do not know whether I did or did not tell him I wanted to hire him after I had explained what I wanted to know and what information was required. I did not come right out and tell him and say "Okey I will hire you." I don't know. It just wasn't that way. One thing led from the weather and the next thing he was telling me he came from Los Angeles and it was more or less run together there. I hired him before he left, that is all I can say.

I saw him a great many times. I wouldn't say every day. I would say I saw him every other day and 'phoned him every day. I talked to him on the 'phone every night. He called me several times at night and on some days. I saw him several times a day. He made written reports to me from time to time. He sent a copy of them to Mr. Levi John-

(Testimony of Ruth McConkey.)

son and to Ralph Armstrong and I believe to my brother. And I believe to Mr. Trullinger when he represented us. I believe that I have substantially all the reports he sent me. They are home. I can bring them here. From time to time he sent me statements of what I owed him. I have turned them over to Mr. Wilson, I believe.

I knew Mr. Haid about half an hour before he showed me his gun. He showed it to me the first day. He also showed me the handcuffs that first day. He sold my son-in-law a pair of handcuffs he found in a pawn shop. He didn't sell the original pair that he had. I cannot say definitely I saw the handcuffs the first day but I am definite about seeing the gun.

There was just one trip by Mr. Haid to Portland that I was on. We were going to take my car but instead we took Mr. Haid's. He suggested it. Before we went there had been a hearing before the court in Olympia concerning the custody of the children and the court had entered an order in reference to the custody of these children.

I didn't ask my Haid for this blue card at the time I went down there. I didn't say to Mr. Haid that I wanted it so that we would have no difficulty with my sister-in-law down in Portland. I don't know why the card was given me because I was supposed to get out of the car two blocks ahead and they were to go to the house. There was no reason for me getting a card and I don't know why the card was handed to me. We got the chil-

(Testimony of Ruth McConkey.)

dren at Portland. We didn't go to the police station first. He 'phoned the police in Portland from here before we left and they couldn't give us any help because we were out of Oregon state.

On the way back when we stopped at Mr. Stuart's station at Woodland there was some talk about payment of this tire. I was not going to pay half of the tire and Mr. Haid the other half. I don't know of any statement being rendered to that effect by Mr. Haid. I loaned him \$20.00 for a tire. He did not give me credit for this \$20.00 on his bill.

Defendant's Identification A-6 is one of the statements that Mr. Haid gave me. There were two tires blown, not one. He charged me for two. The statement shows "Half expense of Tire, \$12.00" and near the top it shows "Credit by Cash \$20.00." I am not sure that that credit was the \$20.00 which I gave him at the time we came up from Portland.

(Statement admitted as Defendant's Exhibit A-6.)

We made the trip to Portland on August 17 but I am not sure that the \$20.00 credit is for the \$20.00 I gave him at Woodland. Defendant's Identification No. A-4 is a check for \$30.00 with my endorsement. It is the \$30.00 that Ellsworth gave him for the gun. The check was given to me by my son-in-law.

(Check admitted as Defendant's Exhibit A-4.)

The children were 4 and 5 when brought back. They were delivered to Mrs. Nordstrom, the wel-

(Testimony of Ruth McConkey.)

fare executive in Thurston County. I did not see much of Mr. Haid after August 17.

I did not have any difficulty with Mr. Haid about this Hundred that I gave him. I asked him for a return of it. He offered to give me a note for it at the time I wrote the check. In February when we had a conversation about this Hundred he said that I owed him a Hundred Sixty-Two and that when I paid him the Hundred and Sixty-Two that he would pay me back this *Two* Hundred. But I don't owe him the money. I didn't hire him. At any rate he said that I owed him a Hundred and Sixty-Two and as soon as that was paid he would pay me back the One Hundred. He made a demand on me for the Hundred Sixty-Two. I never paid that. I don't owe it. There was no difficulty between Mr. Haid and me over the question of how much I owed him. When my brother came back I went over there as I had to show my brother what I did with the money and I asked Mr. Haid for it then. I did not explain to my brother about this Hundred Sixty-Two. If he did it was not in my presence. There was no conversation concerning it, between my brother and Mr. Haid in my presence. In June of this year he sent me another statement for a Hundred Sixty-Two Dollars. Defendant's Identification A-7 is a statement that I received from Mr. Haid in June, 1944.

(Statement admitted as Defendant's Exhibit A-7.)

Plaintiff's Exhibit 5 is a statement that I asked

(Testimony of Ruth McConkey.)

Mr. Haid to make. The only thing he had any connection with in that statement is the \$1225.64 for services rendered for some twelve hundred hours. I gave him the other information written down on that statement. I paid the attorneys' fees indicated and the debts in and around Olympia owing by Margaret amounting to approximately \$500.00. I gave him that information and I paid them.

My mother is Mrs. Elizabeth Mathwig.

Redirect Examination

By Mr. Sager:

I received defendant's Exhibit A-7, a statement for \$163.00 in June. I had a conversation with Mr. Haid just prior to receiving it. That conversation concerned his having gone to my neighbor, Mrs. Highmiller, and said I was talking about her. I went over to Mrs. Highmiller's and she told me what had happened. I then called Mr. Haid up and I said, "Mr. Haid, how can you have done a thing like this to me," and I was crying and he said, "Why, Mrs. McConkey, I don't know what you are talking about," and I said, "If I bring Mrs. Highmiller over there you will know what I am talking about," and by that time I was crying so hard I hung up. I think the next day, or the day following, I got this bill in the mail. I had not received any statement for this amount prior to that time. Plaintiff's Identification 7 was received by me through the mail from Mr. Haid.

(Letter admitted as Plaintiff's Exhibit No. 7.)

(Testimony of Ruth McConkey.)

Q. Now, when you made this loan, would you have made him that loan—I am speaking of this \$100 loan, except for his representation that his check was—his Government check was coming in and was late?

Mr. Johnson: Object to that, if the Court please, as being incompetent, not proper redirect, and immaterial in addition thereto.

The Court: The objection will be overruled.

Mr. Johnson: Exception.

The Court: Exception allowed.

Q. You may answer my question, would you have made this loan to him had he not—had you not believed him to be a Government man, and his statement that his Government check was delayed?

A. No, I don't think I would have. He said he had a check coming every month. He offered a note, but he did not get it.

Plaintiff's Identification 8, I think, is a letter on my brother's case. I received it from Mr. Haid.

(Letter admitted as Plaintiff's Exhibit No. 8.)

Re-Cross Examination

By Mr. Johnson:

I received defendant's exhibit 7 in January, 1944. It is dated January 5, 1943, but that apparently is wrong, it should be 1944. I didn't know Mr. Haid in January, 1943.

The hours shown on Defendant's Exhibit A-7 amount to the same number of hours for which he later sent me a bill for the Miller work.

(Testimony of Ruth McConkey.)

Re-Direct Examination

By Mr. Sager:

The Plaintiff's Exhibit 7, the statement I received in January, does not indicate any amount of money. It merely specifies hours and I did not get a statement in dollars and cents or a bill with that statement. I never got any bill for that in dollars and cents before the statement I received in June.

Re-Cross Examination

By Mr. Johnson:

I did not discuss this statement with Mr. Haid in February. I did not discuss with him in February the fact that I still owed him some money. I didn't owe him any money. In February I asked Mr. Haid for the Hundred Dollars in front of my brother. He didn't say at that time that I still owed him some money. He said his Government check was slow. Nothing was said ever about my owing him some money.

Defendant's Identification A-8 are bills sent me by Mr. Haid. I would say there were others in addition to these because these do not amount to the entire bill, which was \$1225.00.

CARL McCONKEY,

a witness called on behalf of the plaintiff, after having been first duly sworn, testified as follows:

Direct Examination

By Mr. Sager:

My name is Carl McConkey. I am the husband

(Testimony of Carl McConkle.)

of Mrs. McConkey, who was just on the stand. I am employed as a letter carrier in the Olympia Post Office. I have been a letter carrier for 26 years. I first met Mr. Haid in the early spring, about April of 1943. It was merely a friendly visit to his residence.

We discussed many items that evening. He told me he was a detective, investigator, etc. During the discussion mentioning that I was a letter carrier, he said, "You know I at one time had been employed by the government." And he said he had been employed as a letter carrier, investigating some case. I think people were taking checks out of mail boxes, and he said he served several weeks as a letter carrier in order to carry on this investigation. He mentioned that he had traveled extensively as an investigator. He traveled through Europe, and South America and spent several months, if not totaling several years, in Europe as an investigator. He knew that I was a letter carrier. As to whether he said where this job had been I cannot remember directly, but he did mention that it was very cold, below zero, whether if I recollect, it was either in St. Louis or Minneapolis. He said he had done this for several weeks while carrying on this investigation. As to his saying for whom the investigation was being carried on, he said he was employed by the government. He said he was employed by the government and carried it on in his capacity as a letter carrier for this investigation.

(Testimony of Carl McConkle.)

I saw Mr. Haid, I think, once at his house on the Bay, and possibly three times or so in his other residence. Also possibly a few occasions at our home, but probably only on Sundays because that would be the only time that I would be at home. He displayed a gun to me. He said it was used in his official capacity. At the same time he displayed a pair of handcuffs, the same used in his official capacity.

Cross Examination

By Mr. Johnson:

I did not have anything to do with this investigation. That was handled by my wife. When I saw Mr. Haid it was purely in a social capacity. We played pinochle occasionally.

EVERETT STUART,

a witness called on behalf of the plaintiff, after having been first duly sworn, testified as follows:

Direct Examination

By Mr. Sager:

My name is Everett Stuart and I live at Route 1, Woodland, Washington. I operate a service station at Woodland and the first time I saw the defendant, Mr. Haid, was on August 17, 1943, late in the evening when he stopped at my station to purchase a tire. He had an Oldsmobile automo-

(Testimony of Everett Stuart.)

bile and I saw one woman and two children in the car. He said he had to have a tire and tube. I asked him if he had a tire certificate and he said no, that it was an emergency case. He said he had been down in Oregon on a seizure case and in case of emergency, the law enforcing officer could get tires.

When he said he was a law enforcement officer, he showed me his credentials which were in a black folder, a regular leather folder in which most credentials are carried, a badge on one side and there was a picture and reading on the other side. I did not read the whole thing. The badge was similar to Plaintiff's Identification No. 2. There was some writing on the badge and all I noticed was "Bureau of Investigation." That is what I looked at, I figured that was enough for me. I did not see the word "detective" on the badge. The badge he showed me was not similar to plaintiff's identification No. 1. He has shown me another badge since that occasion. It was last week when his attorney there was with him, Mr. Kibbe. When he showed me the badge this last week he pulled out credentials. It was in the same type of folder—wanted to know if that was it, and I told him I did not have it pictured as the same badge as that. He said that that was his credential that he had, and I told him, well, I had it pictured altogether different from that in my mind. It wasn't like the one I had seen previously. The badge he showed me last week was not similar to this Exhibit No. 1. It was a little longer badge, I think. The badge I saw this last time said,

(Testimony of Everett Stuart.)

"Haid's Detective." It had a picture of the State of Washington on it, the same as this has.

Referring back to the conversation in August, 1943, with respect to the time—well, naturally a fellow in a service station has not anything to do with the OPA now, is kind of careful what he lets go of, and I told him we should have a certificate on it. He said he did not have one, he was a law enforcing officer and he was entitled to the tire in case of an emergency, and I told him, we have one of the board members here in town, and I asked him to go up and see him, and he said if he could go to his own board he knew he could get a tire ration certificate, and kept talking about calling the board. I knew it was too late to get hold of any of them. I believe it was after five, a good bit, and through his credentials, and all, he promised to send a tire ration certificate back, which he did. He done everything he told me he would do, and I let him have the tire and tube.

As near as I can remember, he was talking about being a Government man and I said, "Well, I am going to let you have the tire since I don't believe Uncle Sam would put one of his own men in jail. If he does, I will be right behind him and we will both be in jail."

Q. Did he say anything about how the children were down there?

A. Well, we talked a little bit. Naturally, I was curious when he said he was on a seizure case, as I suppose everybody is, but the way I get it, their

(Testimony of Everett Stuart.)

mother had taken them down there. There had been a divorce or something, as near as I can remember, and she had run off with the children and kidnapped them; as near as the story that I can get it,—as it looked to me.

Q. Did he say anything to you about being a Government man?

A. Well, I am not going to state that he said he was a Government man right out, but he made indications to believe—I thought he was a Government man from his identifications from the Bureau of Investigation. That was the first anything had been said about the government.

Mr. Johnson: If the Court please, I move that be stricken and I object to the question, for the reason that we are charged in the indictment with having represented to be a United States Marshal, and obviously, in view of the answer now of the witness, that is not in conformity with the charge with which we have been charged.

Mr. Sager: We will get to that.

Mr. Johnson: I think we are entitled to have strict proof on it. [3]

The Court: Your motion will be denied at this time.

Mr. Johnson: Exception.

Q. Did you believe he was a Government man?

A. I did.

Mr. Kibbe: Now, I move that be stricken, what he believed. What Mr. Haid had told him is the only thing that would justify that, what he be-

(Testimony of Everett Stuart.)

lieved. He might believe I was President of the United States and I would not be.

The Court: I think the rule would be different, Mr. Kibbe, in this particular charge on this count—where this is one of the counts. I shall have to overrule your objection and allow you an exception.

Q. What was your belief as to what capacity and what he was acting as, as a Government man?

A. Well, my belief, if I seen a star, would mean a man was a law enforcement officer, and naturally bound to be a marshal or police of some kind. I think anybody with any common reason would think the same thing.

Q. What was your actual thought about it, what did you think he was?

A. I thought he was a marshal.

Mr. Johnson: May my objection go to all this testimony?

The Court: Yes.

A. (Continuing): From the reading on his badge, and that is all I paid any attention to, that part of the badge convinced me in selling the tire in truth he was a Government man. [4]

Q. What did you say?

A. I figured he was a marshal, naturally.

Plaintiff's Exhibit 9 is my cash register record for August 17, 1943. Whereupon said exhibit was offered and admitted. Exhibit 9 is a bookkeeping record in itself. That slip is for August 17, 1943. On that particular date there was only one tire

(Testimony of Everett Stuart.)

and tube sale, amounting to \$14.52. That was the item I sold to Mr. Haid.

Plaintiff's Identification No. 10 is an OPA tire certificate which I received through the mail, the 27th of August, which was duly offered and received in evidence and marked, Plaintiff's Exhibit 10.

Cross Examination

By Mr. Kibbe:

When Mr. Haid came to my place he did not give me his card. Afterwards he wrote me a letter thanking me for what I had done for him. The heading of the letter was the Haid Detective Bureau. I did not examine the badge carefully. I never had it in my hand. The only thing that I read on the badge is that "Bureau of Investigation" on it. That is the main thing that I was looking at. I did not see on the upper part of it that it said "Detective Haid." I do not remember any reading up above it at all. It did not say what bureau of investigation—just Bureau of Investigation, without saying Haid's. That is all I seen. It could have said Haid's on it, but I never seen it. All I saw was Bureau of Investigation—his identification, and so on—could have said Haid's Bureau of Investigation—I did not read it. He opened it up and showed it to me—I never had it in my hand. I suppose I could have asked him for it.

About the girls, he said he was on a seizure case. I thought he was some kind of a government man

(Testimony of Everett Stuart.)

because he was on a seizure case. That is what I took for granted. He told me that he had gone down to get those girls to bring them back. He said he was bringing them back to Olympia and had to get them back that evening. I knew he was no common officer of Washington because he went across the state line. I knew that unless you have authorization from someone to go across the state line—I did not ask him, and he did not tell me what special office he held. I was just selling him a tire for which I got paid. Mine was a business transaction. He did everything he told me he would do and the deal was wound up as far as I was concerned. I did not know nor care what kind of officer he was. I was in business. I let him have those things to do what I could to get the children back. I figured I was helping an officer of the law, and according to the OPA I was entitled to in case of an emergency for doctors, and such as that, to furnish tires until such time as a certificate can be gotten. I do not remember his stating definitely what office he held or what capacity of the office, or who he worked for. All I know was that he was a law enforcement officer. He convinced me of that.

Re-Direct Examination

By Mr. Sager:

There was talk about him being a Government man. In fact, he would not have gotten the tire if I had not thought he was a Government man. [5]

(Testimony of Everett Stuart.)

Recross Examination

By Mr. Kibbe:

Mr. Haid did not deny that he was a government man and I wouldn't say that he came right out and told me. When I was talking about him being a government man, he did not deny it. He did not say that he was or he did not say that he wasn't. I said something to him to the effect they would not put a government man in jail, if they did I would go with him. A government man might be any other kind of an officer than a United States Marshal. I did not know what kind of a government officer he was. I took him to be a Marshal. Mr. Haid did not tell me he was getting those children for the Thurston County authorities. He told me he was getting them for the parents. He said that their mother had them—went away with them—and he was getting them for the father.

None of the three badges you now show me (plaintiff's Exhibits 1, 2, and 3) is the one he showed me last week. This other one you now show me (plaintiff's exhibit 11) is similar to the one he showed me last week. It differs from Exhibit 1 in that it is bigger and longer. The one he showed me in August and the one he showed me last week are all somewhat similar, but they did not have the same wording on them. The one he showed me in August had more nickel than either one of these. When I saw the one last week it was altogether different because I was looking for more nickel on it or sil-

(Testimony of Everett Stuart.)

ver. These are similar in shape to the one he had there in August, could possibly be the same one, but as I remember, it was a silver color around here, and there was gold in the center part here, is what I have pictured, with the eagle on it. In fact, I wouldn't swear that the eagle was on top at all, because I don't remember seeing the top of it at all; when it was handed to me it was handed open like that. I thought the one I saw in August had silver along the outside, and in that respect differs from these.

He did not show me other papers that said he was an operator for the Haid's Detective Bureau. There wasn't any other papers he showed me, just the credentials. He gave me his name and address and telephone number, a little card about an inch wide—wrote it in pencil and I put that in the cash register and kept it there. It was not similar to plaintiff's Exhibit 4. It was not that wide at all. It was only a narrow card—just a little narrow slip. On it is merely had Haid and his address. I saw his credentials—the little folder that he had in August. His credentials were on one side; that is, his name and everything was on one side. I did not read it all. It was in a little black folder—badge on one side and reading on the other side. I wouldn't say it said Murrell F. Haid on it. I do not remember. The star took my eye when he opened it up. I did not deny his credentials, that he was a law enforcing officer when he pulled them out. I did not ask and he did not tell me what office he held. He was

(Testimony of Everett Stuart.)

telling me he was an enforcing officer of the law. He was after some tires which he needed bad.

Redirect Examination

By Mr. Sager:

The paper he left with me when he was there on August 17 had his name and address wrote in in pencil.

(Badge was offered and admitted as plaintiff's Exhibit No. 11.)

Q. Mr. Stuart, will you demonstrate how he showed you this badge in August of 1943, how he held it?

A. Well, he had it in a little black folder and just opened it up and held it in his hand, where I can read it like that (illustrating). Anybody could read it, no particular way that I know of that he presented it. I could have took it, I guess, if I wanted to, but he opened it up and showed me.

RALPH MATHWIG,

a witness called on behalf of the Government, after having been first duly sworn, testified as follows:

Direct Examination

By Mr. Sager:

My name is Ralph Mathwig. I live at Tumwater, Washington. I and my mother operate a dairy. I am the brother of Mrs. McConkey and Captain

(Testimony of Ralph Mathwig.)

James Mathwig is my brother. I first met Mr. Haid in April, 1943, when he was investigating [6] a case involving my brother's wife and two children. Margaret Mathwig was my brother's wife and she lived next door to us for some time. The first time he came to see me, he said he was Mr. Haid from "Haid's Detective Agency" and I know he had been engaged by my sister, Mrs. McConkey, to secure evidence. He came out on several occasions. On one occasion, I came to the house and mother and Mr. and Mrs. Haid were in the kitchen. Mr. Haid flicked his head for me to come in the other room so I went in the other room with him and he said, "I presume that your sister told you that I work for the Government." I said, "Yes."

He pulled his badge out and showed it to me, and I did not pay much attention right at first, and we done a little more talking and then he went to work and he held the badge up so I could see it. He held it in one hand. He extra pointed out with his finger, so I could read it, where it stated on the bottom of the badge. If he had not done that I would not have known what it stated on the badge. It stated "Issued by the Department of Justice." If he had not pointed out the fact I wouldn't know what was on the badge at all. Plaintiff's identification No. 2 is not the badge he showed me at that time. I am not certain just how he held it and pointed out with his fingers, so that I could read it, "Issued by the Department of Justice." The badge that he showed me, if I am not mistaken, had

(Testimony of Ralph Mathwig.)

printing on both sides because it was silver color and seemed to be gold color on the bottom. It had more printing on than Plaintiff's Identification 2. The words "Department of Justice" were across the bottom, if I remember right. He held it so that I could read that part. I don't think there was a great deal more said. He told me to keep mum, not to say anything to anyone. During that conversation the FBI was mentioned, but I'm not certain whether Mr. Haid or whether I said it. I don't remember all of the conversation. On another occasion when I came into the house Mr. Haid was examining a box of drugs which had belonged to my brother. He said he was looking for some narcotics because he thought maybe that Margaret Mathwig was using narcotics. He said he was going to take them over to Fort Lewis to have them analyzed. He took the drugs with him and never brought them back.

A. He said he had the right to take them.

Q. Why?

A. Well, being that he was working for the Government, he just the same as had the right to take them. [7]

Q. That is what he said?

A. No, I don't know his exact words.

Mr. Johnson: Then I move it be stricken—the answer be stricken as not responsive to the question.

The Court: Objection will be denied—motion will be denied. The witness said he does not know

(Testimony of Ralph Mathwig.)

the exact words. He is not required to give the exact words. He can give the substance.

Mr. Johnson: Then, I misunderstood, I did not understand that he had said that.

I don't know what happened to the drugs.

Two or three times, he wore army pants and shirts I kidded him along about them once and he said he had a right to wear them. I think he said something about working at Bremerton at the Navy Yard at the time, doing some kind of work over there. The only time he mentioned Fort Lewis was when he said he had received word from Fort Lewis to pick up all the old radios he could get his hands on. I gave him two radios.

There was a partly constructed hospital on my mother's property which we had started to build a little better than a year before the war. We were building it for my brother. I had quit work on it after the war. I hadn't done a great deal because we couldn't get help on the place. It was to be a general hospital to be operated by my brother. I did not want the blue prints made because they would have to be changed. Mr. Haid said that the government did not care about that. They would change it to suit themselves.

He said that he knew Senator Walgren real well, and if I'm not sure he said he knew him personally and had large connections in Washington. He was to turn the hospital over—he wanted to give it to the government free of charge for completing it,

(Testimony of Ralph Mathwig.)

and my brother was to be brought back and put in charge.

I don't think Mr. Haid ever told me what he could do in the matter concerning the hospital. There was some talk about these plans. I didn't want to have them made. They would have to send a copy of the plans to Washington to show them what we had. My mother was to pay for the cost of them, but Mr. Haid was to arrange for getting them through a friend in California. They were to cost, I think, \$75.00. That is what he told me they would cost after he made a telephone call, I think, or something. Nothing actually developed, it just went along, and there were telephone calls and Mr. Haid wrote to Washington, the Senator, as far as I know. His work in connection with the matter was to be free of charge. We were to pay for all expenses, and I believe there were statements submitted to us for expenses. I think it was somewhere around \$300.00 or more. These expenses were taken care of by my mother.

Q. Mr. Mathwig, what did you believe of Mr. Haid's capacity—or,— [8]

Mr. Johnson: If the Court please, object to that, on the ground that it is incompetent and not the proper basis on which—that the testimony is purely a matter of opinion, and the ultimate question to determine is what the facts were, and that matter is for the jury to determine.

The Court: Yes, the jury will finally have to determine the question of whether or not this person

(Testimony of Ralph Mathwig.)

parted with any property or anything on the belief and on the representation of—what he he believes of course is not conclusive of what the factual matter is or was. However, he may answer the question and exception allowed.

Mr. Johnson: Exception.

Q. The question is, Mr. Mathwig, what did you believe Mr. Haid to be?

A. Well, after Mr. Haid asked me whether my sister had told me about whether he worked for the Government or not, and he showed me the badge, why I took him for a Government employee.

Q. You took him for that?

A. I took him for a Government employee.

Q. Did you take him for any particular Government employee?

A. By the badge, I took him he represented the F. B. I.

Q. The words "Department of Justice" suggested that to you? A. Yes, sir.

Q. Would you have let him take these drugs if you had not thought he was a Government man?

A. No, I would not, because I figured we would [9] be responsible.

Q. If you had not thought him to be a government man, would you have entered into this agreement with Mr. Haid with respect to the proposal on the hospital?

A. No, I don't think we would have.

I saw Mr. Haid's gun which he showed to me and I took it and had it in my hands. I saw the gun

(Testimony of Ralph Mathwig.)

on other occasions. He always wore his gun. He later had the barrel changed and said it was Government regulations or something. I saw Mr. Haid's handcuffs. It seems like he always had them in his belt. No, I think he had his gun on one side of the belt fastened on one side and the handcuffs on the other, fastened in his belt if I remember right. I am not positive just how. I saw them on more than one occasion.

Cross Examination

By Mr. Johnson:

The building for the hospital was very incomplete, no rooms had been finished, no windows and only partly covered by roof. There was some discussion between Mr. Haid and my mother, that my mother would be willing to turn the hospital over to the Government on condition that the Government would complete the hospital and after the war was over, it was to be returned to my mother.

I did not see any correspondence between Mr. Haid and Senator Wallgren. None of the correspondence was shown to me. I don't think it was shown to my mother.

I consulted someone about plans and I told Mr. Haid they would cost about \$300.00 and he told me that he had a friend who would do it much cheaper. He called his friend long distance and said the cost would be \$75.00 or \$85.00 for the plans. My mother later approved the expenditure for the plans. During the preparation of the sketch, Mr. Haid con-

(Testimony of Ralph Mathwig.)

sulted with me about a number of changes that should be made. I had a contractor estimate the cost of completing the building and his estimate was between \$40,000 and \$50,000. I conveyed the information to Mr. Haid. There were a number of pictures taken. Mr. Haid told me he had called Washington, D. C., on several occasions. The Government did not take over the hospital building. Mr. Haid did not advise me or my mother that the government had written him and said that they could not use the hospital as it was. He did not tell me that before he came to Olympia he had a Haid's Bureau of Investigation in Texas. He did not tell me that he worked for the Navy in California and at Corpus Christi, Texas.

He was dressed in Army clothes, shirt and pants. I do not know where he bought them, but you know my brother is an officer and I have seen him time and time again. Mr. Haid's shirt was just like my brother's shirt. I do not remember what the buttons were. I couldn't testify to that part, but the pants were just exactly like my brother's as far as I know. They looked identical, the same color and I am positive about that. They had the same texture, them pants were exactly the same as my brother's. They were the light shade of an officer's trousers. [10]

I gave him two radios, both of which were broken to the point, it was expensive to repair them and one had been in the barn. Mrs. Haid was pres-

(Testimony of Ralph Mathwig.)

ent on every occasion that Mr. Haid was at the farm.

The first time I met Mr. Haid he introduced himself as Haid of the Haid's Detective Bureau. That was about April.

During the investigation concerning Margaret Mathwig, Mr. Haig found some X-ray machines of my brother's which were delivered to us.

Defendant's Exhibit A-9 for Identification are pictures that were taken by Mr. Haid of the hospital building, these were offered in evidence and received as Defendant's Exhibit A-9.

Redirect Examination

By Mr. Sager:

I don't really know how the X-ray machine was secured by Mr. Haid but I believe it was on a Court order. It was recovered, I think, from a house where Margaret Mathwig had moved it.

ELIZABETH MATHWIG,

a witness, called on behalf of the plaintiff, after having been first duly sworn, testified as follows:

Direct Examination

By Mr. Sager:

My name is Elizabeth Mathwig. I am seventy-two years of age and I live on a dairy ranch at Tumwater, Washington. I am the mother of Captain James Mathwig, Mrs. Ruth McConkey and Ralph

(Testimony of Elizabeth Mathwig.)

Mathwig. My husband is dead a long, long time ago. Ralph and I operate the dairy together. I met Mr. Haid after my daughter had engaged him to investigate Mrs. Margaret Mathwig. He [11] first came to my ranch on account of the two children. He came several times and on each occasion Mrs. Haid was with him. I saw him quite often in army clothes just like my son had, the light tan ones. I never saw his badge. He showed me the gun. He put it on the table. He showed me the handcuffs and everything, just no badge. He showed it quite often. I saw them on three or four occasions. He gave me some points for meat and I said to him, "You are a Government man and giving me points," and I laughed over it but I took the points. He came out one time and said he wanted to look at the drugs and he took them and said he was going to destroy them. He came out and he said he wanted to look, too, and I gave him the whole box what there was. There was an apple box full and he looked at it. He looked it through and then he came out mit it and then he said, "Well, I take it and I going to destroy it," he told me. He said that he was going to destroy it, that it was dangerous to have in the house. There was no dope in it or nothing—excuse my language. He did not say there was no dope in it, und he took it, see, und the next day he came again, and I said what did you do mit it, and he said it is tended to. You see, I didn't know that he would take it. It came so unexpectedly. I thought he just looks the box through and other-

(Testimony of Elizabeth Mathwig.)

wise I believe I would not let him take it. It wasn't my property.

Q. Did Mr. Haid tell you why he was examining the drugs?

A. Well, he give us to understand that he was a Government man.

Mr. Johnson: I move that be stricken.

Q. Well, what did he say?

Mr. Johnson: Just a moment.

A. That is so long ago——

Mr. Johnson: Just a minute, Mrs. Mathwig.

The Court: I will overrule your objection, Mr. Johnson.

A. I couldn't tell you the exact words.

Mr. Johnson: Exception.

I couldn't tell you the exact words. Anyhow, he says he has the right to take them and look them through.

On one occasion he came out and said that he could get the Government to finish the hospital building and my son could come back and run it. Then he said you get your son right back home, and I said, "No, you can't," and I told that I don't believe you could ever get him back, Mr. Haid was so insistent, oh, yes, he can run this hospital. He can be the doctor there for the government. He said he could do that through his influence in Washington. That his uncle was a Judge. He was to do everything free of charge and I was to pay the expenses that the plans would cost, \$85.00, which I advanced to him. Later I paid some more when the

(Testimony of Elizabeth Mathwig.)

plans came. He said the cost was higher. I got a statement from him. [12]

Plaintiff's Identification 12 is a check for \$84.00 to Mr. Haid. Whereupon Identification 12 was offered and admitted without objection and marked Plaintiff's Exhibit 12.

Plaintiff's identification No. 13 is another check I gave Mr. Haid on the hospital, too.

(Check admitted as plaintiff's Exhibit 13.)

Plaintiff's Exhibit 14 for identification is a statement rendered by Mr. Haid and was offered in evidence and was admitted without objection and marked Plaintiff's Exhibit 14.

Plaintiff's Exhibit 15 and 16 for identification were likewise admitted without objection and marked Plaintiff's Exhibit 15 and 16. These are statements from Mr. Haid and both of them were paid.

I also gave Mr. Haid \$170.00, for which he gave me a promissory note which was to be paid in two or three months. Plaintiff's identifications 17 and 18 are the note and my check to Mr. Haid.

(Check admitted as plaintiff's Exhibit 17 and note as plaintiff's Exhibit 18.)

This note has not been paid. I asked him to pay the note and he told me he had money coming from San Francisco and as soon as he got the money, he would pay me. I have now turned it over to a collector. I also gave him \$18.00 one time and some cash on other occasions to pay for expenses for

(Testimony of Elizabeth Mathwig.)

which he gave me no receipt. Mr. Haid always came out and said he made phone to Washington. He came out once and said he had a letter from Senator Wallgren and that he looked very favorable on the hospital. I gave him in all about \$400.00, including the \$170.00 on the note. During the negotiations and transactions with respect to the hospital and the drugs and one thing and another I talked these matters over with my son, Ralph, but not very much. I also talked with my daughter, Ruth, about Mr. Haid in connection with the hospital and in connection with the children. She brought him out one evening.

Q. What did you believe as to Mr. Haid's occupation or employment?

Mr. Johnson: Just a minute.

A. Well——

Mr. Sager: Just a moment.

Mr. Johnson: There is no testimony here whatsoever that Mr. Haid made any representation to Mrs. Mathwig concerning his being connected with the Government in any [13] degree, and certainly now she may have formed an impression of what somebody else may have told her. That now, is not competent evidence and is objected to on that ground.

The Court: Of course she will understand—the witness understand what she believed or what she thought at that time, and not what she thinks now. The question is limited to that extent. The objection will be overruled and exception allowed.

(Testimony of Elizabeth Mathwig.)

Q. At the time, Mrs. Mathwig—at the time Mr. Haid was coming out to your place, what did you believe was his occupation?

A. That he was a Government man.

Q. Would you have permitted him to take the drugs if you had not believed him to be a Government man?

Mr. Johnson: Object to that.

A. No, I wouldn't.

The Court: Whenever there is an objection, you wait.

Mr. Johnson: Object to this on the basis there is no testimony now in evidence, so far as Mrs. Mathwig is concerned, of any impression she received from Mr. Haid himself or any misrepresentations on his part as to the fact that he was not—that he was employed by the Government in any confidential capacity.

The Court: Objection will be overruled, Mr. Johnson. Exception allowed.

Q. Would you have entered into this arrangement with him for the attempt to reconvert the hospital if you had not thought he was a Government man?

Mr. Johnson: Object to that, if the Court please, [14] on the same ground.

The Court: Same ruling.

A. No, you wouldn't do this to a perfect stranger.

Q. Would you have loaned him the \$170 on the note? A. No, I wouldn't, neither.

Mr. Johnson: Same objection.

(Testimony of Elizabeth Mathwig.)

The Court: Same ruling.

Cross Examination

By Mr. Johnson:

Mr. Haid never did tell me directly that he was a Government man. I knew he was employed by my daughter to secure evidence so that my son might secure the custody of the children and was employed as a private investigator or special investigator. He never told me directly "I am a Government man," or "I am a F. B. I." or "I am a marshal." He only said he had influence with the Government. From my own independent knowledge of what Mr. Haid said to me I formed an opinion that he was a Government man.

Q. What did he do now, and what did he say to make you believe he was a Government man? I mean, he, himself, not what somebody else told you. What did he himself do to make you believe he was an officer of the United States?

A. Not to me.

Q. No?

A. I based my thought that he was a Government man on all his actions, how he acted around and everything. He never said directly that he was a Government man but when we spoke to him as though he was he never corrected me neither. Like in the grocery store when I said "you give me points and you are a Government man" and all like this. He never corrected me. No, Mrs. Haid did not give me the points. It was Mr. Haid. Mrs.

(Testimony of Elizabeth Mathwig.)

Haid stayed in the car. Another thing that led me to believe that he was a Government man was when he said he had his influence and the like in Washington.

I thought he was a F. B. I., although he never said he was a F. B. I. He made a kind of impression on me. I knew that my son was paying him for his services. He suggested the idea of the hospital and I thought it was a good idea. The plan was that the Government was to finish the hospital and use it and in a certain number of years to return it to my son when he gets back and he could pay the Government on contract what was spent on it. I was given a copy of the plans prepared by Mr. Brown. I was to pay for the plans, telephone and [15] postage. He was not to charge for his time spent in matter and there was no mention of his charging for gas and oil, and I paid him about \$225.00 for such expenses. I don't have checks or receipts for the payments I made to him other than those I have put in evidence. Lots of times I have paid him in cash.

He never wore any army coat or hat but he did wear army trousers but I cannot say for sure about the shirt. His army trousers looked just like my son's.

When he mentioned the handcuffs, it was just in fun and there was not anything serious about it. When he showed me those handcuffs on any occasion I think he wanted to impress upon a per-

(Testimony of Elizabeth Mathwig.)

son, that is why he showed them. On one occasion he laid them on the table.

My granddaughter's husband worked for Mr. Haid and at one time was sent to San Francisco and one time went East of the mountains and one time went to Puyallup on an investigation. He said he was going to destroy the drugs. He said they were dangerous to have in the house.

Redirect Examination

By Mr. Sager:

His frequent handling of the gun and handcuffs led me to think he was a Government man. A common person just don't have those kind of things.

ELMER J. BROWN,

a witness called on behalf of the plaintiff, after having been first duly sworn, testified as follows:

Direct Examination

By Mr. Sager:

My name is Elmer J. Brown. I live in Los Angeles. I am a draftsman employed by the Automobile Club of Southern California. I am distantly related to Mrs. Haid. I had a telephone call with Mr. Haid in 1943, in reference to some plans. \$50.00 was mentioned as the cost, and later received a letter from Mr. Haid which is Plaintiff's Iden-

(Testimony of Elmer J. Brown.)

tification No. 19. This letter followed the first telephone call.

Said Exhibit for identification was offered in evidence and admitted without objection and marked Exhibit 19. [16]

I received in that letter a cashier's check for \$50.00.

Plaintiff's Identification No. 20 is another letter I received from Mr. Haid and with that letter I received \$25.00 or \$35.00.

Plaintiff's Identification No. 20 was admitted without objection and marked Plaintiff's Exhibit No. 20.

I prepared the sketches and plans and sent them to Mr. Haid and some corrections were made after telephone conversations with Mr. Haid. Three copies of blue prints were also made.

Cross Examination

By Mr. Johnson:

I received some sketches from Mr. Haid which were in a rough state and I redrew them. I discussed the new plans with Mr. Haid over the telephone and made corrections. I had four or five telephone calls with him and received a total of \$85.00 in cash. I did not pay for the telephone calls.

EDWARD F. SHARPE,

a witness called on behalf of the plaintiff, after having been first duly sworn, testified as follows:

Direct Examination

By Mr. Sager:

My name is Edward F. Sharpe and I live in Olympia, Washington, where I operate a drug and grocery store. I am also a pharmacist. [17] I have known Mr. Haid for about two years.

In April, May or June of 1943, he brought me a box of drugs and said, "Well, here are some drugs I thought you could use, and if there is anything you don't want, just throw them away." Some of the drugs were outdated and I threw them away, the others I put on my shelves. I disposed of some of them. I gave them later to Mr. Wilson, an agent of the F. B. I. There was about one-third of the original lot left then. The value of the drugs I gave Mr. Wilson is possibly between Ten and Fifteen Dollars.

Cross Examination

By Mr. Johnson:

Mr. Haid never asked for nor did he receive any credit for these drugs.

JOHN J. LOCHER, JR.,

a witness called on behalf of the plaintiff, after having been first duly sworn, testifies as follows:

Direct Examination

By Mr. Sager:

My name is John J. Locher. I live in Tacoma and am a Special Agent of the Federal Bureau of Investigation. I first saw Mr. Haid on August 24, 1944, at his home and residence in Olympia. Mr. Wilson was with me. We examined a ledger sheet from his records pertaining to the Mathwig Hospital. I copied that ledger sheet. It is plaintiff's identification 21. The original was left with Mr. Haid. Plaintiff's identification 21 is an identical copy of the ledger sheet with the exception of my initials "J. J. L." and the date "8-24-44" that appears in the upper left hand corner of it. This copy was made in the presence of Mr. Wilson and Mr. Haid, and I think Mrs. Haid. The original ledger sheet showed entries of both debits and credits. It showed items of expense for long distance calls to Los Angeles, and to Washington, D. C., to Senator Walgren; for postage for a roll of film and for developing and printing. A debit of \$10.00 for architect and another debit under architect for \$45.00. The total was shown as \$170.31, and it showed credits of \$78.43 and \$85.45. The last date on the ledger sheet was 7-21-43. It contained an entry to Elmer J. Brown, followed by a debit entry in the sum of \$50.00.

(Testimony of John J. Locher, Jr.)

Cross Examination

By Mr. Johnson:

In addition to the total appearing on the front of the ledger sheet in the sum of \$170.00, there were two items appearing on the back that were \$18.80 and \$7.75. Those added to the \$170 would make approximately \$197. I did not make the computation. I merely testified what the ledger sheet showed. Mr. Haid gave us this information without hesitancy when we asked for it.

ALICE GERTRUDE HIGHMILLER,

a witness, called on behalf of the Plaintiff, after being first duly sworn, testified as follows:

Direct Examination

By Mr. Sager:

My name is Mrs. Alice Gertrude Highmiller. My husband is now in Northern Burma, in the service. He has been in the service two years last September 3rd. My home is in Olympia. My home is next door to Mrs. McConkey. I have known her about two years.

I first met Mr. Haid the 1st of February, 1944, in my home, about two weeks before that I had a telephone call from Mr. Haid. He introduced himself as Mr. Haid and said that he had received a telephone call regarding me. He said some person

(Testimony of Alice Gertrude Highmiller.)

called him suggesting that he send a business card to Dr. Highmiller and asked if I knew anything about it. I replied that I certainly did not know anything about it and had no idea what he was talking about. He said he wanted me to know before he sent the card to Dr. Highmiller; that he would not do so without consulting me first, that his was an ethical detective agency. He said the call had been anonymous, that the party who called would not give her name. I told that my only conclusion was that evidently somebody wanted to cause trouble between my husband and myself. He said that there had been a previous call to him which he had not received because he had been at one of the local schools finger-printing the children which he had been ordered to do by the Government. He said he was not being paid for it but that it meant about Two Thousand Dollars of his time and expense but that the Government had ordered him to do that finger-printing of the school children. He said that he finally had asked the person who called if it were a civil offense, a criminal offense or a marital offense and she had replied "a marital offense" and he explained to the person that he was not interested in that type of thing, that they did not make investigations of that type.

I asked him if it was a woman and he said "yes."

He asked me if I had noticed anything unusual and then I thought of an incident that had seemed unusual. About a week before I had received sev-

(Testimony of Alice Gertrude Highmiller.)

eral 'phone calls and when I would answer the other end of the line would not answer.

Mr. Haid stated to me that through his connections he could place a man down at the telephone company behind the board and find out who was making those calls to me. I said to him that that was against the Federal Communications law and he said, "I don't mean to say I could listen in on a conversation, but I could place the man down there and they could check every number that was calling your house and we could check back on the board. And he said for me to let him know if he could be of any assistance and we concluded our conversation. This telephone conversation lasted about half an hour.

The next time he called me was on January 27th, which I remember as being my son's birthday. He said he decided to call me to see if I had been bothered by any more anonymous 'phone calls. I told I had not. On the first call he asked me if I had any nosey neighbors. I told him that I did not know that I had any and he said "I would find out who is doing this to me and then I would go over there and slit their throats and tell them to mind their own business." I told him there were only two neighbors close enough to know what was going on around my place, one of them being Mrs. McConkey and I said to him, "You could tell me more about McConkeys than I could." In a later telephone conversation I asked Mr. Haid if he recognized the anonymous voice on the telephone

(Testimony of Alice Gertrude Highmiller.)

and he said he thought he did. He said he knew only one family in the neighborhood and I said "I don't see how she has time to interest herself in my affairs because she has just taken those two little girls to take care of." I also told him "that is what is hard for me to believe that Mrs. McConkey would be doing that sort of thing to me" because I had only friendly relations with her and I was not too well acquainted with her at that time. Mr. Haid said if he could think of any way in which this case could be handled he would let me know.

The following day he called and asked if he could come to the house that he wished to discuss something with me. We arranged that he should come the next evening which he did. We immediately started our conversation about these anonymous 'phone calls to Mr. Haid. I called Mrs. McConkey by name and said that I didn't believe that she had any interest in my affairs and I couldn't understand if she did why she was more or less knifing me in the back. He shrugged his shoulders and said, "Well, she has done it to us."

He had not been in the house long when he showed me his gun which he explained had recently been cut down from a 4-inch barrel to a 2-inch barrel, in compliance with Government orders. He took the bullet out and handed me the gun.

He said he had been in Texas and had been sent from Texas to California to do special work for the Navy. I said, "Oh, then you are an F. B. I. man?" and he said, "No, don't misunderstand me,

(Testimony of Alice Gertrude Highmiller.)

please, Mrs. Highmiller, I am not an F. B. I. man." I said, "But you do special work for the Government," and he said "yes" and he went on to say that he had been sent from California up to Washington and was to locate in Tacoma but because of the housing situation they had located him in Olympia and that he was doing some sort of special work at Fort Lewis.

He asked if I knew Eddie Sharp and I told him I knew he was a pharmacist. He said that Eddie Sharp was awfully curious as to why he wore army pinks and then he explained that he had four or five pairs of army pinks and seven or eight army shirts. I asked him if he wore them when doing special work at Fort Lewis and he answered "yes." He then said that Eddie Sharp was so curious about his wearing army pinks that he had told him that he was going to go down to the police station and find out what he was doing and Mr. Haid said "let him go. He won't find out anything about me. After all they don't have any published list down at the police station."

As to his being connected with the Government, he did say that he was sent up here. That he had told them that this was his last move, that after all when you had a family and you were trying to raise children and you stayed about one year in one place and then were sent to some place else that it was very difficult to keep moving the children and raise them properly and so his move here was to be his last move. He said he had been doing

(Testimony of Alice Gertrude Highmiller.)

special work for the Navy in California. That when he did special work at Fort Lewis he wore the army pinks and the army shirt. In connection with having his gun barrel shortened he explained that he could have this done at the Fort but that the guns were being altered at that time and it would take two or three weeks and therefore he had it done in Olympia. As to the problem he had come to see me about that night he had come to the conclusion that the way to handle that was just to let it go and not say anything and in time it would come about naturally that we would probably find out why Mrs. McConkey had said this and was doing this sort of thing to me. He said if he could be of any assistance in any way to please call him. He was there that evening about one and a half hours.

Cross Examination

By Mr. Johnson:

I did not see Mr. Haid again after that nor have any more telephone conversations with him. He didn't ask me to pay him anything and I didn't pay anything or give him anything of any kind.

RUTH McCONKEY,

resumed as a witness on behalf of the Government and further testified as follows:

Direct Examination

By Mr. Sager:

I never made a telephone call to Mr. Haid anonymously with respect to Mrs. Highmiller.

ORVILLE R. WILSON,

a witness called on behalf of the plaintiff, after having been first duly sworn, testified as follows:

Direct Examination

By Mr. Sager:

My name is Orville R. Wilson and I am a Special Agent, Federal Bureau of Investigation. I have investigated this case. I first called on Mr. Haid on August 21, 1944, again on August 24, 1944, and again on September 28, 1944. On the first occasion Agent Flanigan of the Federal Bureau of Investigation accompanied me. I advised Mr. Haid on this first occasion that we had received certain complaints which, if true, might be a violation of the impersonation laws and said that I desired to question him concerning such complaints. I asked Mr. Haid if he carried credentials, badges, handcuffs, and a revolver and he said he did. He produced his credentials from his person. Plaintiff's exhibit

(Testimony of Orville R. Wilson.)

No. 4 is the type of card he showed me as his credentials. It was a blue card carrying the name "Haid's Bureau of Investigation." On the back of it was his picture. In the picture he had on an army officer's type cap and what appeared to be an army officer's type shirt. The picture on plaintiff's identification No. 22 is similar to the picture that was on the credentials he showed me at that time, but plaintiff's identification No. 22 is not the credentials that he showed me at that time.

Voir Dire Examination

By Mr. Johnson:

The credentials are not the same. There is a very distinctive difference. No. 22 says "Haid's Detective Bureau" and the blue credential card which he had (Plaintiff's exhibit No. 4) said "Haid's Bureau of Investigation." The remainder on the two cards appear to be the same.

(Card admitted as Plaintiff's Exhibit No. 22.)

Later, on August 24th, he showed me a credential card like plaintiff's exhibit 22.

Direct Examination

(Resumed)

By Mr. Sager:

On this first occasion he produced one badge which he was carrying in some portion of his coat. Plain-

(Testimony of Orville R. Wilson.)

tiff's identification No. 2 would appear to be an identical badge.

(Three badges received from Mr. Haid were admitted as Plaintiff's exhibits 1, 2 and 3.)

He stated he had been operating in Olympia under the name of "Haid's Bureau of Investigation." That the picture of him with a cap on was not an army cap but that he had been employed as a guard in a defense plant in California and this picture was a picture of him in his guard uniform. I asked him why he used this picture of him in uniform on his credentials if he were acting as a private detective and he said it was the only picture he had.

I then referred to this permit number on the credentials. He said that was his permit number to carry a revolver and I believe also it had a finger print stamp in here. His finger print stamp on the credential. He showed me his gun at that time, producing it from his person and said he had a permit to carry the gun.

He said he carried handcuffs and produced them from his person. I asked him if he ever used his credentials by placing his thumb over the word "Haid's" and saying "I am Haid of the Bureau of Investigation," and he said that he had never done so. I asked him if he had done so what would be the implication from that and he said, "that would have meant that he was Haid of the Federal Bureau of Investigation." He said he had re-

(Testimony of Orville R. Wilson.)

cently changed his business name to "Haid's Detective Agency" or "Haid's Detective Bureau" because "Haid Bureau of Investigation" might be misconstrued to mean "Haid's Federal Bureau of Investigation" or the Federal Bureau of Investigation and that during war time he did not want any question of a misrepresentation to arise. He said that in order to make that change he had already requested that new credentials be printed for him, and that while he was still carrying the badge "Haid's Bureau of Investigation," that he had ordered a new badge. This conversation about the badges and credentials was on my first interview with him on August 21, 1944. On my next meeting with him on August 24th he then produced badges and credentials which were similar to plaintiff's exhibit 22. He said this was to be his new type of credential. He said his new badge had not come yet. Then on September 28, 1944, when I again interviewed him he produced a new badge which was identical to plaintiff's exhibit One. At that time there was a general discussion about badges and I produced my official badge and he expressed interest in it and said "well, that badge isn't as good as the F. B. I. agents carried a few years ago," and he said at that time they carried a very impressive badge. He described it as having the phrase "Bureau of Investigation" and "Department of Justice" looped around the center of the badge and then he said there was a wide enamel circle on this F. B. I. badge and that on that white

(Testimony of Orville R. Wilson.)

enamel surface was a star. On August 21st and 24th the badge he showed me was identical to plaintiff's exhibit No. 2. On September 28th his new badge was identical to plaintiff's exhibit No. One.

We talked about his trip to Portland, Oregon, and the Mathwig children. I asked him if during that trip he had a blow-out near Chehalis and if he stood by the side of the road and flagged a passing motorist by using the badge held in the palm of his hand in this manner (illustrating) and he said he had done that. I asked him who he intended to represent in so acting. He first said he intended to represent himself as a private detective and I said "do private investigators use badges in stopping motorists" and he then said, "well, he intended to represent a law enforcement officer at that time but not a Federal law enforcement officer." I asked him what type of law enforcement officer he intended to represent and he didn't reply.

I asked him about the Mathwig Hospital building and he said Mrs. Mathwig had requested that he help her and that he was to receive no fee except expenses. He first said he had expended between \$125.00 and \$150.00. I told him I had seen his receipt to Mrs. Mathwig for an architect's fee in the sum of \$120.00, and he then said he would have to revise his figures upwards. He then produced a ledger sheet and I asked him if he had any vouchers to support the items listed on the ledger. He said he had no vouchers but could produce them. On August 24 he produced an itemized statement

(Testimony of Orville R. Wilson.)

which is Plaintiff's Exhibit 23. We had a discussion then concerning the Mathwig account. His ledger sheet showed an item of \$75.00 to Mr. Brown for these blue prints. He said he guessed that was the final price he was to pay Mr. Brown for these blue prints. Then I showed him plaintiff's exhibit 14, a receipted bill to Mrs. Mathwig, showing architect's services and blue prints, \$120.00. I asked him why he billed her \$120.00, when the ledger shows total payment in the sum of \$75.00. He then said Mr. Brown estimated the services at \$120.00 and he had billed Mrs. Mathwig without waiting. There were items on his ledger sheet of \$75, \$45, and \$10, and I asked him to reconcile those figures with his bill to Mrs. Mathwig in the sum of \$120.00 and \$50.01. He said he couldn't reconcile them, that he guessed he was a poor bookkeeper. We went through plaintiff's exhibit 23 item by item. He said, concerning the first item to Fred Haid at St. Louis, \$5.30, that Fred Haid was his father. I asked him why he called his father in connection with getting the hospital under government control, and he said his father was a retired clerk of the probate court, and he thought he might have some influence some place. He gave the same explanation to the next item. As to the item under date of September 7, he said that was for a telephone call to Senator Champ Clark's Secretary. There were additional items noted July through November, and I asked him why they hadn't appeared on his original ledger page, and he said well, he had expended

(Testimony of Orville R. Wilson.)

them so he was adding them in. As to the item of \$75 to E. J. Brown for plan drawing in the sum of \$75, he said, that was the correct amount rather than \$120.00. I asked him to explain why his original ledger page ended with a date of approximately July 21, 1943, and this account ended with an item of December 15, and it appeared that there were approximately 8 or 9 additional expenses incurred after July 21, and he said, well, he had gone on with this matter after that time, and I asked him when he had received information that the hospital was not going to be used by the government, and he said that he had received that information from Senator Wallgren toward the end of July, 1943. Plaintiff's exhibits 24 and 25 are letters that I received from Mr. Haid's file on the hospital matter.

(Letters admitted as plaintiff's exhibits No. 24 and 25.)

Plaintiff's Exhibit 25 for identification was [19] offered and admitted without objection.

On August 21, 1944, Mr. Haid stated he was not employed by the Government and had not been employed by the Government since coming to Olympia.

Plaintiff's Exhibit for identification No. A-26 are the drugs turned over to Wilson by Edward Sharpe. They were offered and admitted and marked Plaintiff's Exhibit 26.

(Testimony of Orville R. Wilson.)

Cross Examination

By Mr. Johnson:

Defendant's Exhibit for identification A-13 is the receipt I gave for the Mathwig file. Offered and admitted and marked Defendant's Exhibit A-13.

Haid said he had worked for the Navy and as a guard in defense work in California and Texas.

He showed me Defendant's Exhibit A-15 which is a certificate.

Defendant's Exhibit for identification A-14 is the correspondence and papers in the Mathwig file turned over to me by Mr. Haid. Offered and admitted and marked Defendant's Exhibit A-14.

Defendant's Exhibit for identification No. A-16 is an identification card issued by the City of Olympia. It was offered and admitted and marked Defendant's Exhibit A-16.

He told me he had operated a detective bureau in Wichita Falls, Texas.

The badge I carry now is not like the badges turned over to me by Mr. Haid.

He told me on August 21, 1943, the first time I [20] called on him, that he had already made arrangements to change the name of his business.

Defendant's Exhibit for identification A-3 is a leather folder in which Mr. Haid carried his credentials.

It was offered and admitted without objection and marked Defendant's Exhibit A-3.

On August 24th, he gave me an itemized statement of the Mathwig account in the sum of \$204.44.

(Testimony of Orville R. Wilson.)

He said he had received approximately \$196.00 and a few cents.

He said he had called his father who was a retired Clerk of Probate Court in Missouri, who he thought might have some influence; he also called Captain Reagan at San Francisco and had contacted some Government department in reference to the hospital building.

He said he had hoped something could be worked out for the hospital and that is why he continued his efforts.

Defendant's Exhibit for identification A-17 is the permit issued by the Police Department of the City of Olympia to Mr. Haid to carry concealed weapons. It was offered and admitted without objection and marked Defendant's Exhibit A-17.

Redirect Examination

By Mr. Sager:

The correspondence I received from Mr. Haid did not include the original ledger sheet.

The gun Mr. Haid showed me on August 24th is the same as Plaintiff's Exhibit for identification 27. [21]

Mr. Sager: We will offer it.

Mr. Johnson: Object as immaterial, not pertaining to any issue in this case.

The Court: Objection overruled, it will be admitted in evidence.

(Thereupon, gun referred to was then received in evidence and marked Plaintiff's Exhibit No. 27.) [22]

JOSEPH RICHARD GIBBONS,

a witness called in behalf of the plaintiff, after being first duly sworn, testified as follows:

Direct Examination

By Mr. Sager:

My name is Joseph Richard Gibbons, and I am manager of the Pacific Telephone and Telegraph Company at Olympia. The records of that office are under my control and custody.

Plaintiff's exhibit 28 is a long distance call record, which shows the telephone number placing the call. The number is Olympia 5700, which is Mr. Haid's telephone number. This call was placed December 14, 1943, but was actually completed December 15, 1943. On our bill to the customer this call will be shown as on December 15. Our records do not show any other long distance toll on December 15 by Mr. Haid to St. Louis, Missouri.

(Long distance toll record admitted as plaintiff's exhibit 28.)

The total charge indicated on the record is \$6.20 plus the tax. Call was made to the Laddis Pharmaceutical Company.

Cross Examination

By Mr. Johnson:

I could not say whether there was any other call by Mr. Haid on some other telephone.

(Testimony of Joseph Richard Gibbons.)

Redirect Examination

By Mr. Sager:

If a call had been placed over another telephone and chargeable to this telephone number on that date, it would show in these records that I have brought. There were no such. If such a call were not directed to be charged to this telephone number it would not show in this record.

MARY GOWAN LILLIBRIDGE,

a witness called on behalf of the plaintiff, after being first duly sworn, testified as follows:

Direct Examination

By Mr. Sager:

My name is Mary Gowan Lillibridge. I live at Route 6, Olympia. It is about six miles from town out on the Bay. My husband is in the Army as a medical officer. At our home we have a cabin and a part of our home which we rent out. I first met Mr. Haid on April 6, 1943. He and his family came out to see our cabin which they wished to rent. He said that he wanted to look at the cabin, that he had been sent out by the real estate agent, and I said, "Oh, but you are civilians? I expected officers because that is why I have it rented. I rent it for officers." He said that it would be the same as renting to an officer because he was in the em-

(Testimony of Mary Gowan Lillibridge.)

ploy of the government. I noticed his car had a California license, and he said he had been sent up by the government to this defense area. He did not say definitely what he was to do here, other than he was in the employ of the government and that in renting him the cabin I would be doing as much a service to my country in having him as I would in having an army officer. I rented the cabin to him.

He said he must have a telephone. We were on a farmers' line and you have to have a share of stock and you have to buy your own telephone instrument. My daughter and I and Mr. Haid put in the telephone for him the following day. He said he needed it in his business, that he had to have a telephone. Mr. Haid said on one occasion, regardless of how many times the telephone might ring we were never to answer. He said the calls were personal and confidential and we were not to interfere in any way and we respected his request. He said he was doing work for the government; that he had been on special assignments in the South and he was much interested in finger printing. He always had on his gun in evidence. He usually carried it in a holster, or else when they were in the house, it was very readily available. It was always in evidence.

He kept the house locked to the extent that the youngsters could not get into the upper part of the house. Mr. Haid told us very definitely not to go near because the house was wired and we would

(Testimony of Mary Gowan Lillibridge.)

get a terrific shock if we tried to. If the house burned down, let it burn. He said he kept the house locked and wired because there are very confidential matters in it, and he did not want anybody getting in, even the youngsters.

A boat had been washed up on our shore and I reported it to the Coast Guard. Mr. Haid wished to use the boat and I told him that it would not be possible for him to use it because the Coast Guard had given directions that it should not be used until a year later, but that he might inquire at the Coast Guard. I told him he would have to have a Coast Guard identification if he were to use it, because they were very rigid about their identifications. Mr. Haid said it would not be necessary because his credentials were so much better than the Coast Guard, that his means of identification was better.

I believed Mr. Haid to be a member of the FBI. I arrived at that belief because he wore a uniform type of clothes, because of his conversation about investigations and government assignments. I would not have rented the premises to him if I had not believed him to be a government man, nor would I have installed a telephone at that time.

Cross Examination

By Mr. Kibbe:

I tried not to interfere with their business, but at one time I asked Mr. Haid if he had been connected with the State Highway Patrol in California

(Testimony of Mary Gowan Lillibridge.)

because he wore a similar uniform with the insignia, and he said he had not been a part of the patrol, but he had worked directly with them. He wore this uniform right along out at the Bay. It was an old one with the insignia off. It was suntan breeches with boots or puttees, and a cotton suntan shirt, and over the breast pocket there was a dark spot that looked as though it had been under a patch. I doubt if you could buy that type of shirt and pants at a department store. It was not an army uniform because they don't wear breeches except in the Cavalry. He said he was working for the government and if there was any opening to mention assignments for the government they were made the most of. He did not say in what department he was working. He did say that the finger prints were sent to the Department of Justice. I knew that he was taking fingerprints of the school children in Olympia. He used our workshop to remake a holster for his gun. I asked him if he was a member of the FBI and he said, no, but he was working directly with them. He said he was very busy with government assignments and therefore I must not use the telephone. He did not tell me what assignments he had, or where they were or when they were. I do not know what he was or what his work was, other than what he represented to us. He represented to us that he was working for the government and in renting it to him it was the same as renting to an army officer. I had my house listed with the housing bureau and the real estate

(Testimony of Mary Gowan Lillibridge.)

agent only for army personnel, and when he came out I said, "You are civilians, I expected army people." I thought I was helping in the housing shortage someone who was working for the government. I rent primarily to give officers and their wives a chance to be together because I could not be with my husband. He said he was working for the government and I would be helping—he was plausible and I believed him. I think he misrepresented to me the fact that he was working for the government.

JEAN LILLIBRIDGE,

a witness called on behalf of the plaintiff, after being first duly sworn, testified as follows:

Direct Examination

By Mr. Sager:

My name is Jean Lillibridge. I am the daughter of Mrs. Lillibridge, who just testified. I am 19. At one time while at Mr. Haid's cabin I saw some envelopes and papers on his desk and asked him what they were for, just common curiosity, I guess, and he said they were some work he was doing for the government.

Cross Examination

By Mr. Johnson:

He just said that he was working for the government and nothing more. With respect to these envelopes and papers he said they were something for the government and he was very busy.

IRENE NELSON,

a witness called on behalf of the plaintiff, after being first duly sworn, testified as follows:

Direct Examination

By Mr. Sager:

My name is Irene Nelson. I live at Olympia, where I operate an antique shop and resell shop. The name is Irene Nelson's Shop. I first saw Mr. Haid the latter part of May, 1944.

I had a candid camera in my shop for sale and he came in and looked at it. It was a consigned item, that is an item that I had just taken in to sell for another party. The first time he just looked at it and then he came in a few days later and looked at it again and said, "You know this is the kind of camera I want. This is the kind we use in our work." In the course of the conversation Mr. Haid told me that his work was FBI-Secret Service.

Then he told me that he would like to get it, but he did not have the money, and I told him I would hold it with a deposit down. I could hold it for two weeks, but my shop rules were not to hold anything on deposit longer than two weeks, and he told me he could make a deposit of \$5.00 and that he would pay the rest in just a short time because he had a check coming from Washington, D. C., and he said "Sometimes you know those checks are late." He made the deposit of \$5.00. Plaintiff's identification No. 29 is the sales slip which I made out the day he made the \$5.00 deposit. It is dated June 1, 1944. This identification is the duplicate. He has the original. He assured me he was very happy in

(Testimony of Irene Nelson.)

having located such a camera as it was essential in his work.

He came in again about the 15th and told me he hadn't the money; that his check had not come. I told him I could not keep the camera indefinitely, so he paid me \$3.00 more. Plaintiff's identification No. 30 is the receipt for the \$3.00, dated June 22. He told me two or three times that he was using it for FBI work and Secret Service. On one occasion I told him, "That is a little strange. I didn't know we had an FBI man here in Olympia," and he said "uh huh." I do not know exactly when that conversation was, but it was either when he made the \$3.00 payment or when he paid the balance. A few days after he made the \$3.00 payment he came in and said he would not be able to take the kodak and wanted his money back. I told him I wouldn't return his money, that he had kept the camera out of stock for almost a month, that I would put it back in stock and when I sold it I would return his \$8.00. I put it back in stock and some days later he called me long distance from Tacoma and said he would come in and pick it up. I asked him if he had the money and he said yes. He came in the next day and paid the balance, which was \$20.33. This last payment was made the last couple of days in June, or the first couple of days in July. He told me he was an FBI man and I believed him. Had I not believed he was with the FBI I would have held the camera for him for only two weeks but no longer.

(Testimony of Irene Nelson.)

(Original sales slip furnished by Mr. Johnson was substituted for duplicate previously identified as plaintiff's 29, and admitted as plaintiff's exhibit No. 29. Receipt admitted as plaintiff's Exhibit No. 30.)

Cross Examination

By Mr. Johnson:

I wanted to sell the camera. If anyone else paid a deposit of \$5.00 I would have kept the camera for him, but after the two weeks were up the camera would have gone right back into stock. The notation, "Will call for it the 15th, or shortly thereafter," appearing on plaintiff's exhibit 29, I put there because he told me his checks were sometimes late from Washington, D. C. When he came in on the 22nd and paid me \$3.00 I still thought he was an FBI man.

He did not give me his card on June 1, but later he came in and laid his card on the counter. I began to doubt he was an agent of the FBI on June 15 when he did not show up. Later when he came in and told me his check had not arrived and he could not take the kodak, then I felt there was something wrong. By the time I delivered the kodak to him I knew he was not with the FBI.

Redirect Examination

By Mr. Sager:

When he came in shortly after the 15th and his check had not come from Washington, D. C., I was very suspicious and I called the Police Department. From that time I knew he was not an FBI agent.

LAURA MAY CAMFIELD,

a witness called on behalf of the plaintiff, after having been first duly sworn, testified as follows:

Direct Examination

By Mr. Sager:

My name is Laura May Camfield. My husband's name is Clarence Camfield. I live at 1200 East 10th Street, Olympia. I am the grandmother of Wildabelle Sorrel. I am seventy-two years of age.

About the 6th day of February, 1944, Mrs. Sorrel, who lives across the road from Mrs. Gross, disappeared and I placed an ad in the paper offering a \$100 reward. Plaintiff's Exhibit 31 for identification is the ad I placed in the paper. I don't think the ad had been in the paper more than a week when Mr. Haid came to my house. It was on the 3rd of April, 1944. He came to the house, said "I am Mr. Haid." I invited him into the house. He represented himself by saying that he was from the Bureau of Investigation. He showed me his badge at that time, taking it from his left, here, in a manner of putting his hand over, and I just stepped over and read the lower part of it, and it said Bureau of Investigation.

Q. Will you show the jury just about how he handled that badge when he showed it to you?

A. Well, he took it from the side like this (illustrating).

Q. You show it to the jury so they can see.

A. To the side like this, and I stepped over and

(Testimony of Laura May Camfield.)

I read Bureau of Investigation, but I did not see the word "Haid," or any more to it than that. [23]

Q. And then what else was said about it at that time?

A. Well, I said "Well," and he said he was a private detective himself, and I said "How many F. B. I.'s and private detectives are there in Olympia?" and he said "Three," and that was all that was said, as far as three was concerned, and he didn't say who they were or anything about it. Now that is just the way that he said that, and then he went to asking questions about the girl, and of course, I answered him, and he asked different questions, and I couldn't tell you either one of the questions that was asked, just offhand, but the next question, I said, "Well," I said to him, I said "Does the F. B. I.'s and private detectives take cases of this kind?" and he said "We do sometimes on occasions," and he says "Yes, we do." "Well," I said, "Well, would they take a case for that small amount of money?" and he said "Yes, we can."

I told him that I would only give \$100.00. I said to him, "We are poor people and we are doing this on our own account, offering the \$100.00," and I said I could not offer any more than \$100.00, would they do that for that price—look for the girl for that amount of money? And he said they would. He then made out a receipt, and I said, "Do they take money in advance?" and he said, "Yes, on occasions of this kind," and I handed him the

(Testimony of Laura May Camfield.)

money in a \$100.00 bill, and he gave me the receipt, and I said, "Guess that's the largest piece of money you have had for a long time?" and he said, "Oh, no, I went down to California and brought back some prisoners. I got over \$2,000 for it."

I asked Mr. Haid, "How does the F.B.I. go about finding anyone like this," and he said, "Oh, we have ways to find them." I asked him how long it would take and he said, "It will take a week, or two weeks, or six weeks, but we will have her back."

Plaintiff's Exhibit for identification No. 32 is receipt I received from Mr. Haid.

Plaintiff's Exhibit for identification was admitted without objection and marked Plaintiff's Exhibit No. 32.

I saw him on two occasions after that, at which time he told me that my granddaughter had run away with an Indian. He showed me his gun. After he gave me the receipt he said, "We will put the F.B.I. on the tracks right away. The time I gave him the money, I thought he was a F.B.I. [24] I would not have paid him the money if I did not think that.

There was some conversation with Mr. Haid on his first visit about the ad in the paper. After I paid him the money I realized that if anyone came in who had found the girl they could come on me for collection of the reward, and I said, "What will I do about that?" and he said, "I will take care of that. I can take care of that for you." He did

(Testimony of Laura May Camfield.)

not say he came to see me by reason of the ad in the paper, but he had spoken that the ad was in the paper for \$100.00 cash. I think we talked about the reward, but I do not know whether the ad was mentioned. I believe the ad was removed from the paper the next evening.

When he came to my house the first time he had a picture of my granddaughter, which he said he had gotten from the Sheriff. I did not find out that Mr. Haid was not an FBI agent until Mr. Wilson came to my house. Mr. Haid never found my granddaughter.

Cross Examination

By Mr. Johnson:

Mrs. Sorrel's father and mother are Walter and Bertha Camfield. Walter Camfield is my son.

I believe Walter had gone to the prosecuting attorney's office about his daughter. I talked to Mr. Levy Johnson six weeks or two months later but I did not say anything about Mr. Haid.

I think he took it from his vest pocket. It was something like the badge Mr. Sager showed me. He never said "I am an F. B. I. man." As I paid him the money he said he would put the F.B.I. out on the trail or track. He never ever told me he was working for the Government. He never ever used the words "Special Agent of the Federal Bureau of Investigation."

I don't think he said he was a private detective. I used that word myself. He didn't tell me he had

(Testimony of Laura May Camfield.)

his own Bureau of Investigation. I had asked him before I paid over the money "does the Federal Bureau of Investigation take cases of this kind?" and he said, "Yes, we do." Mr. Kibbe and Mr. and Mrs. Haid were down to see me last Wednesday or Thursday. I didn't tell Mr. Kibbe that the words F. B. I. were not used by Mr. Haid.

On the first occasion Mr. Haid was there, Mrs. Haid sat out in the car. I went out and talked with her. Mr. Haid said that his wife was with him and a much better detective than he was, but she never said a thing.

He never at any time represented to me by word that he was an F. B. I. agent or that he was from the Federal Bureau of Investigation but I asked him if the F. B. I. did this private detective work and he said, "Yes, we do, on occasions." [25] I said "How many F.B.I. private detectives are there in Olympia?" and he said "Three."

Redirect Examination

By Mr. Sager:

Mr. Haid never submitted any written reports to me. Mr. Kibbe, Mr. Haid and Mrs. Haid were down. I did not answer any questions or give them any information. I called Mr. Levi Johnson to find out if Mr. Haid was an F. B. I. man. That was some time after he had been over and I paid the money over. I got leary about him from his remarks and thought he wasn't one and I called Mr. Johnson to find out if he was. [26]

CLARENCE CAMFIELD,

a witness called on behalf of the plaintiff, after having been first duly sworn, testified as follows:

Direct Examination

By Mr. Sager:

My name is Clarence H. Camfield. I am the husband of Laura Camfield. I was present on April 3rd when Mr. Haid called at our house. He said his name was Haid and he was from the Bureau of Investigation. He showed a badge which is similar to Plaintiff's Exhibit 3. He took the badge out of his pocket, pulled it out like this and said, "This is my badge," but he had his thumb over the top of it. I could not read what was on the badge because I did not have my glasses. He showed us his gun that night. I believe Plaintiff's Exhibit 27 is the gun. At least it was one like it.

Mrs. Camfield asked him how many F.B.I. there were in Olympia and he said there was three. Later on, she asked him if F.B.I.'s would take these cases as he has taken this and he said, "Occasionally we do work for the F.B.I. men. I do not recall now, anything said in respect to the F.B.I.

Q. What did you think Mr. Haid was?

Mr. Johnson: Object to that as being immaterial and incompetent and immaterial.

The Court: Objection overruled, go ahead and answer the question.

A. Well, I wouldn't know what he was. I didn't [27] know what he represented. He didn't tell us anything except Bureau of Investigation. [28]

CLARA GROSS,

a witness called on behalf of the plaintiff, after having been first duly sworn, testified as follows:

Direct Examination

By Mr. Sager:

My name is Clara Gross. I live about four miles west of Olympia. Mr. Walter Camfield lives across the street from me.

My first contact with Mr. Haid was when he called me on the telephone. A lady across the street had run away and left three little children, and they had inserted an ad in the paper. When Mr. Haid called he asked if this was 8788, that was our telephone number. Plaintiff's identification 31 is a copy of the Olympian, dated March 24, 1944. I had seen the ad in this paper prior to the time Mr. Haid called me. The phone number in the ad is my phone number, and it refers to the girl that was missing. When Mr. Haid called he asked information about this girl that had run off and left her children. He wanted to know about it.

He asked me all kinds of questions about it, and I asked him who he was, and he said that he was Mr. Haid from the FBI. After talking quite awhile over the phone he said, "I will be out," and he came out that evening and two or three times after that. This call from Mr. Haid was right after the ad appeared in the paper. When Mr. Haid came to the house my son was there. Mr. Haid showed

(Testimony of Clara Gross.)

me his badge. The badge was either on his coat or on his shirt, and he pulled it back and I saw his gun.

Q. I want to show you Plaintiff's Exhibit 2 and ask you if that is the badge or similar badge to the one he showed you at that time?

A. Well, I couldn't say, but it looks like it. I saw Bureau of Investigation, and I thought it was Federal Bureau of Investigation. It looked like it to me, it had on it Federal Bureau of Investigation.

Mr. Johnson: Object as calling for a conclusion.

The Court: Objection will be overruled.

Mr. Johnson: Exception.

Q. Did you notice the word "Detective" on the badge?

A. He had it pinned on him and I didn't see very close. It looked shinier than it is now. [29]

He asked me all about the girl across the street, Wildabelle Sorrel. Her parents are Mr. and Mrs. Walter Camfield, who live across the street from me. I told Mr. Haid all I knew about her and about her disappearance.

He took his gun out of his holster and my little boy, Bill, saw it and he said, "Well, we have a gun just about like that," and he got our gun and showed it to him. When Mr. Haid showed the gun he said, as I recall, "This is the gun I carry." He said nothing to me about F.B.I. at my home.

(Testimony of Clara Gross.)

Cross Examination

By Mr. Johnson:

When Mr. Haid called me on the telephone he did not say, "This is Mr. Haid of the Haid Detective Bureau," he said, "I work for the F. B. I." He did not say, "This is Haid of the Haid Bureau of Investigation." He used the words FBI. I am definite about that. I am a little hazy whether he mentioned that again. It seems to me when he took out his gun he said, "This is the gun I carry for my business." Before he took his gun out he showed us his star and then he took out his gun and showed the gun. He did not give me his card when he came. He said he was interested in trying to locate this girl, but did not say he had been employed by her parents, or her brother, or sister-in-law.

His badge was not in a little container. It was pinned on him. I saw bureau of investigation on it, and I really thought he was an FBI man. I did not notice the word "Detective" on the badge. I saw "bureau of investigation."

Redirect Examination

By Mr. Sager:

I remember the badge had "Bureau of Investigation." It looks like Plaintiff's Exhibit 3. There were words up above but I did not notice them. [30]

WILLIAM HENRY GROSS,

a witness called on behalf of the plaintiff, being first duly sworn, testified as follows:

Direct Examination

By Mr. Sager:

My name is William Henry Gross. I am 14 years old, and the son of Mrs. Gross who just testified. I was present when Mr. Haid called at our house in the evening. When he came in he introduced himself as Mr. Haid and showed his badge. I was quite away from it and did not see it very good. Pretty soon he pulled his gun, and I said, "I have got a gun just like this" and "Do you want to see it?" We went into the other room and he said, "I use this gun in my business," and I said "What is your business?" and he said "I work for the FBI." He handed me his gun and I saw it was loaded.

Cross Examination

By Mr. Johnson:

My mother was present except when we went into the other room and he said, "I work for the FBI." She was still in the front room. He and I went into the other room alone and when he said, "I use this gun in my business," and I said, "Just what is your business?" He used the words FBI. I am positive of that. He did not say that out in the living room where my mother was.

J. E. STEARNS,

a witness, called on behalf of the plaintiff, being first duly sworn, testified as follows:

Direct Examination

By Mr. Sager:

My name is J. E. Stearns. I live at Hicks Lake, near Olympia, and am a deputy sheriff for Thurston County. I have known Mr. Haid a year and a half or two years.

Mr. Haid would come into the office and we would discuss law enforcement work generally. On one occasion he told me he had been working in Texas some sort of Government work. He told me what a rigid course of training and inspection he had to go through in the line of work he was doing in Texas. He said the Government felt he was doing better work for the war effort in Olympia than he was in Texas, but he didn't say what type of work he was doing in Texas.

Cross Examination

By Mr. Johnson:

My experience with him was when he had to come in to the office with reference to cases he was working on as a private detective.

ELLSWORTH WOOD,

a witness, called on behalf of the Plaintiff, being first duly sworn, testified as follows:

Direct Examination

By Mr. Sager:

My name is Ellsworth Wood. I live at Olympia, Washington. I am a police officer for the Olympia police department. I went to work there January 1, 1944. I am a son-in-law of Mrs. McConkey. I knew Mr. Haid very well. I met him at the Elizabeth Mathwig Dairy farm about the middle of July, 1943, and saw him subsequently from time to time, at my mother-in-law's home. I worked for Mr. Haid. The first time I started on September 2, 1943, and worked nine days. Then September 16 I went to work for him on another job and worked one week. He told me he had worked at Los Angeles in a Navy defense plant before he came up here and that he was working for the Secret Service at this Los Angeles defense plant.

He told me on one occasion, and mentioned it a couple of times later, that he worked for the Army Intelligence in the last war and he was also working in Olympia and was stationed in this district here to work for the Army Intelligence. He generally dressed in what we call Army Officers' Pinks, shirt and pants. The only difference was there was no United States markings on the uniform. It was regular "pinks." Uniform, shoulder holster

(Testimony of Ellsworth Wood.)

straps. There was dual pockets—carried a gun and handcuffs.

I saw his badge. On one occasion out at my mother's home he made a tracing of a badge. He laid a piece of paper across a badge and run back and forth across it with a pencil and it comes through very good, quite plainly and you can see the pattern. Well, that badge was very much like the one I have. Very similar to that. It has a gold center and silver outline on the outer edge. He had a badge similar to Plaintiff's Exhibits 2 and 3, but he also had this badge similar to the one that I carry. I don't recall exactly what was on that badge. He had the badge in a small box between two layers of cotton.

Cross Examination

By Mr. Johnson:

Plaintiff's Exhibit Eleven differs from the badge I carry in my police work in that it is a silver gold-plated badge. Mine is a two-tone with a star at the top. The Washington State Seal is the only similarity. He told me that the badge in the box he had had replated at a jewelry store in Olympia. When I worked for Mr. Haid I carried a gun and on one occasion, handcuffs. I didn't have one of his cards with "Haid's Detective Bureau" on it. The one I had was a blue card "Haid's Bureau of Investigation." It was signed by Murrell F. Haid and on the back it had my identification, my thumb print and my photograph. That is the way I identified myself.

(Testimony of Ellsworth Wood.)

He sent me on various private investigations. To San Francisco on one occasion and over in Chelan County on another. I had cards like defendant's exhibit One. Mr. Haid had written my name on some of them and I was instructed when I went into a house to give them a card and I would say "I am Mr. Wood with the Haid Bureau of Investigation."

Mr. Haid wore an ordinary coat, a double breasted or single breasted. I don't recall any time that he wore a Government coat of any kind. I don't believe I ever saw Mr. Haid in a cap. His shirt was an Army Pink. I refer to them as "pinks" because that is the army name for officers' shirts. The pants that Mr. Haid wore were not slacks. They are typical of those worn by Army commissioned officers. I would say from my observation of them they were regulation Army Pinks but I didn't take a look at the label on them. I would say they were regular commissioned officers' pants—the same type Commissioned Officers wear in the Army—the same collar, the same shape. I was employed by Mr. Haid as a private detective.

Redirect Examination

By Mr. Sager:

Q. What did you think Mr. Haid was?

Mr. Johnson: Improper redirect in the first place, and secondly——

The Court: I doubt whether it is redirect, and he doesn't fix any time, the time when he went to work?

(Testimony of Ellsworth Wood.)

Q. At the time you were working for him——

Mr. Sager: Just a minute, until the Court rules.

Mr. Johnson: May I state the ground of my objection, if the Court please? Objected to on the ground it is purely calling for a conclusion, and it is irrelevant and immaterial so far as the issues in this case are concerned.

The Court: Objection will have to be overruled. Exception allowed.

Mr. Johnson: May I just say one other thing?

The Court: Yes.

Mr. Johnson: There is no testimony here, if the Court please, that he gave his opinion to any one who is alleged to have been defrauded in any count in this indictment.

The Court: That is not the test in a case of this nature. You read the cases——

Mr. Johnson: I read them and I have a different idea of the law.

The Court: This offense is the representation of a public officer, rather than the obtaining of anything of value. He may answer.

Q. Do you remember the question?

A. Will you repeat it?

Q. I asked you what you thought Mr. Haid's business or occupation was?

A. Well, he had already stated to me that he worked for the secret service at Los Angeles. Therefore I drew my conclusions that he was still in the same capacity in Washington that he had been in Los Angeles, because he made the statement that

(Testimony of Ellsworth Wood.)

they had shipped him up here in this district, in the District of Washington for further work up here.

Q. Well, then, what did you think he was?

A. A Secret Service agent or a man from the Federal Bureau of Investigation.

Recross Examination

By Mr. Johnson:

He didn't exactly say anything in my presence which led me to believe he was a Secret Service Agent. The investigations that I went on were hired by private individuals in addition he had some cases in which he worked for the County Sheriff and Mr. Levi Johnson, the Prosecuting Attorney. However, I still thought he was a Secret Service Agent of the Government or a Special Agent of the Federal Bureau of Investigation up until the time I worked for him for approximately a week and then I found out different. That was my opinion of him at that time from his mannerisms, his speech, his actions and the way he conducted himself.

Redirect Examination

By Mr. Sager:

My opinion was also based to some extent on what he told me as to his work with the Army Intelligence and his prior Secret Service work.

(Testimony of Ellsworth Wood.)

Recross Examination

By Mr. Johnson:

He told me he was working for the Army Intelligence now. He never discussed it with me. He was quite secretive about it. The word to describe it, he was quite braggative in his manner. He did tell me he was working for the Intelligence Unit of the United States Army.

During the testimony of the witness, Ralph Mathwig, who was a Government witness on the second day of trial, the following took place:

The Court: Will Counsel step up here a moment.

Now then, for the record, I have been informed during the intermission that one of the jurors, Mrs. McCool, has identified one of the Government witnesses when such witness appeared here in Court, though at the time Mrs. McCool was interrogated, she had no knowledge of her acquaintanceship with such witness, not identifying her by name, and for that reason, I am going to interrogate Mrs. McCool further on voir dire.

Mrs. McCool, you live in Olympia?

Mrs. McCool: Yes, sir.

The Court: And this lady, Mrs. Mathwig, the elderly lady who has not yet testified, do you know her?

Mrs. McCool: I know her, yes.

The Court: Did you know her by name?

Mrs. McCool: I did not. I did not know her name.

The Court: What is the nature of your acquaintanceship?

Mrs. McCool: About eight years ago she came to my house to purchase some chrysanthemum plants, and since then I probably have seen her probably a half a dozen times on the street, and she would ask me how my flowers were, and that is all the acquaintance I have had with her.

The Court: Would that acquaintance in any way be a factor in your acting as a juror in this case?

Mrs. McCool: No, it would not. [31]

The Court: Would you give any greater weight or consideration to her testimony because of the fact that these matters have occurred in the past—that is, the purchase of some plants from you, a speaking acquaintance when you passed, would that cause you to give a greater weight to her testimony than you would to anyone else?

Mrs. McCool: No, it would not.

The Court: Are you sure that you could decide the case upon the evidence just as fairly and impartially as though that occurrence had never taken place?

Mrs. McCool: I certainly could.

The Court: Any questions you want to ask, Mr. Johnson?

Mr. Johnson: No questions I can think of, your Honor.

Mrs. McCool: As far as the case itself is concerned, I have never heard it, only what I have heard in the courtroom here.

The Court: That is all, I just wanted to have the record clear.

Mr. Johnson: May it be understood I may make my motion at a later time—it may be considered at this time so that we won't take time to——

The Court: Yes, now, you may proceed.

And That Thereafter the Following Took Place:

Mr. Johnson: Now, if the Court please, it having come to the attention of the Defendant and his Counsel that one of the jurors was somewhat acquainted, according to the [32] interrogation by the Court, with one of the witnesses, now I move for a mistrial, for the reason and upon the ground that had the Defendant been advised of, or had known that this juror was acquainted with one of the witnesses for the Government, he would have challenged the juror and exercised one of his peremptory challenges.

The Court: I shall have to deny your motion, Mr. Johnson, because the interrogation by the Court made a short time ago, indicates that this juror would in no manner be influenced by reason of this very superficial acquaintanceship she had with a witness. The juror was not even identified by name, when the name was read in voir dire examination of the juror.

It is true that Counsel for the Defendant exercised, I think, only one peremptory challenge, and there is even the probability that Counsel would have exercised a peremptory challenge in this case. I am not prepared to say that they would. This juror, though, under interrogation by the Court,

in every respect qualified as a fair and impartial juror.

However, I do feel that if Counsel for the Defendant and the Defendant are of the opinion that they would desire to proceed with this case with eleven jurors, and waive their Constitutional right to twelve jurors, that I would give consideration to an application to excuse such jurors, but I am not making that as a condition.

Mr. Johnson: If the Court please, I cannot now say to the Court I have any authority to waive any rights, so far as the Defendant is concerned, without consulting him in that regard. [33]

The Court: You may do that during the noon intermission. The Court, however, is perfectly satisfied that this juror is a fair and impartial juror, just as much so as a juror can be, and I would not be warranted in declaring a mistrial. I might even find myself into former jeopardy, because the jury has been sworn to try the cause and empaneled, and the cause has been on trial for two days.

Mr. Johnson: May the record note our exception to the Court's ruling?

The Court: Yes. [34]

At the closing of the Government's case, the following motions were made and proceedings had:

Mr. Johnson: The defendant moves the Court for an order to withdraw from consideration Count One of the indictment—consideration of Count One of the indictment from the jury and dismiss the Count One of the indictment for the reason and

upon the grounds that there is not sufficient evidence submitted to justify the submission of said Count One to the jury, and that there has been a failure of proof on the part of the government to sustain the charge made in Count One of the indictment.

Count Two—I might say I make the same motion as to Count Two; that it be withdrawn from the consideration of the jury, and the count be dismissed.

The same motion as to Count Three.

The same motion as to Count Four.

The same motion as to Count Five.

The same motion as to Count Six; and

The same motion as to Count Seven.

The Court: I am not going to ask you to argue them now, but I think I will let you check up. Well, instead of bringing the jury in at 9:45, I will have the jury brought in about 10:00 or a little after, and give you an opportunity to present concisely. Whatever argument you have that applies to Count One applies on the others, except as to Count Two, that is drawn under a different phase, and I want to say at this time the motion is well taken as to Count Two, but I am not going to definitely decide——

Mr. Sager: Count Seven is also drawn under the other phase of the statute. [35]

The Court: Count Seven alleges that by reason of such assumption and pretense he acquired the camera. I had not noticed Count Seven close enough to make that distinction. Yes, it is, Count Seven does fall under the first subdivision.

Mr. Johnson: I think that is right.

The Court: The proof as to Count Seven, though, Mr. Johnson and Mr. Kibbe, and Mr. Sager, I will state to you is much stronger than the proof on Count Two, but I have carefully made notes and I do not think I will put the Court Reporter to the difficulty of getting out the testimony of the witness on Count Two because I have it pretty carefully noted. However, I would like for the purpose of expediting this, I would like to dispose of these matters before we bring the jury in. Otherwise I shall feel inclined to dispose of them in the presence of the jury, with proper instructions safeguarding it, but I prefer to do it in the absence of the jury.

Mr. Johnson: Will the Court convene at 9:30 or quarter of 10:00?

The Court: Quarter of 10:00, but keep the jury out of the court room. Adjourn court until 9:45 in the morning.

January 5, 1945

Nine-Forty-Five O'clock A. M.

The Court met pursuant to adjournment; all parties present with the exception of the jurors.

The Court: Now, Mr. Johnson.

Mr. Johnson: May it please the Court, with reference to the statement that the Court made, just one other count that I would like to present some

argument to the Court [36] on and that is Count 5. That is the Stuart transaction.

The Court will recall the testimony in the Stuart transaction. It was the testimony that Mrs. McConkey and Mr. and Mrs. Haid and the two children were in the automobile and there was a blow-out and they went into the Signal, I believe, service station to secure a tire. The testimony of Mr. Stuart was that there had been no representation made by Mr. Haid that he was a United States Marshal; that he showed him his badge that he could have taken the badge and could have read it if he so desired, and there was no suggestion that Mr. Haid had withheld the badge in any manner; that he read the badge—the lower part of the badge. Mr. Haid told him that they had been down to Oregon to get the two children and that they were on their way back and they were in need of this tire; that Mr. Stuart further testified that he was primarily interested in selling the tire; that Mr. Haid told him he did not have the ration stamp but because he was a law enforcement officer, I believe the testimony of Stuart was, that he would be able to get the ration stamp and he would send it to him immediately; that the testimony of Stuart I think further was to the effect that he actually did not pay a great deal of attention to the badge, and he was satisfied that he was entitled to a tire, and that Mr. Haid did everything that he said he would do. The question was asked him, however, what he thought—what his opinion was, or what he believed Mr. Haid to be, and he said because he saw the

badge and because these children were being brought back from Portland, he thought he was an agent of the Bureau of Investigation or a Marshal. [37]

Now, it seems to me, if the Court please, that that testimony of Mr. Stuart—and that this is the only testimony so far as this transaction is concerned, is not in any way—does not in any way satisfy the charge in this count. There was no intent in any way to defraud. There was no suggestion, as I see the testimony, of any attempt to defraud. There was no misrepresentation or any pretense, save the fact, however, that Mr. Stuart may have, as he said, didn't pay much attention to it, but he thought he might be an agent of the Bureau of Investigation or United States Marshal seems to me is not sufficient under the charge in this count, nor under the law to submit the matter to the jury.

The Court: I shall have to deny your motion in regard to Count 5, as well as all of the other counts with the exception of Count 2, I think it is, and I will hear from you, Mr. Sager, on Count 2, and an exception will be allowed.

Mr. Sager: Now, your Honor, of course is aware of the fact that Count 2 is brought under the first clause of the statute which makes the ultimate consummation of the offense under that clause in the statute, is taking upon one's self to act in a pretending capacity.

Now, Mrs. Highmiller's testimony is that on the first telephone conversation Mr. Haid said to her, "I have been by order of the Government," or "At the order of the Government, I have been taking

fingerprints.” That likewise during that conversation in the very first telephone conversation, he said, “I can have a party placed down behind the switchboard to check those calls coming to your house,” and she said, “You can’t do that because that is prohibited [38] by the Federal Communications Act.” “Oh,” but he said, “Through my connections I can put a man down there. I cannot hear the conversation, but I can at least find out where the calls are coming from.” That is her testimony—I mean as far as representation goes, of their first telephone conversation.

Now, the Indictment charges—that count of the Indictment charges the overt act to be he took it upon himself to act as such officer, in that he called upon and interviewed the said Gertrude Highmiller. The calling upon her and the interview with her at her home is the alleged overt act in the count. Of course, when he got out to her home there is almost as much misrepresentation, and pretense as to Government employment as has been in many of these other cases. He said to her for one thing, he handled this gun and mentioned to her he had the barrel shortened as a result of Government regulation. I think he said he could have had it done at Ft. Lewis, but they were so busy out there he had it done in Olympia.

He mentioned about the wearing of the Army trousers, although he did not have them on at the time he mentioned how many pairs—he mentioned having been sent here by the Government. He went so far there at her home, she says, “Then you are

with the F. B. I.," and he says, "No, I am not with the F. B. I.," and "Don't misunderstand," and then "But," she says, "You are a Government man," and he said, "Yes."

The Court: I do not have that in my notes at all.

Mr. Sager: I am sure she testified to that, your Honor.

The Court: I have it that he told her that he was [39] conducting an ethical agency.

Mr. Sager: Yes, that is true, too. That was over the first telephone conversation, but at her home, at the time of his visit to her home was, during the general conversation, I am almost positive this was in the testimony or in her evidence, she said, "Then you are with the F. B. I.," or, "You are an F. B. I. man," or something or that sort, and he said, "No, don't misunderstand me, I am not with the F. B. I.," but, she says, "You are a Government man, or with the Government," and he said, "Yes." If there is any question about that, I would like to have the reporter refer to that testimony, but——

The Court: Well, there is a serious question in my mind. I mean, there is all this other misrepresentation there in her presence about his gun being shortened by Government regulation, and my recollection of this witness' testimony was that she was not under the impression at all that he was a Government man. There was nothing said or nothing done or nothing left unsaid that led her to believe that he was a Government man.

Mr. Sager: She did not testify she believed he was a Government man, and I don't think under

whether he assumed or pretended to be a Federal officer.

Mr. Sager: Of course, that will depend upon her statement as to what he said, and I think the transcript will reveal that fact.

The Court: Have you anything further, Mr. Johnson, before the jury are brought in?

Mr. Johnson: I have nothing further.

Mr. Sager: Before the jury is brought in, do you——

Mr. Johnson: Merely for the purpose of the record, note an exception to the Court's ruling. [42]

The Court: Yes. That is, an exception on all counts other than Count 2.

Mr. Johnson: That is right.

* * *

The Court: Now, before we proceed further and take testimony, I desire to state that I just read the transcript that covers Count 2, and from a reading of it I am satisfied that it presents an issue of fact, and will therefore have to rule adversely on your motion, Mr. Johnson.

Mr. Johnson: May the record show an exception?

The Court: Yes. Now, you may proceed. [43]

ROY L. KELLEY,

a witness called on behalf of the defendant, after having been first duly sworn, testified as follows:

Direct Examination

By Mr. Johnson:

My name is Roy L. Kelley. I am Chief of Police of Olympia, Washington.

I know Mr. Haid. In April, 1943, he came to my office and told me he contemplated opening a detective bureau in Olympia. He said it was to be a private detective bureau. He showed me Plaintiff's Exhibit 2 and 3, which I did not read closely but recall the badge had the words "Haid's Detective and Bureau of Investigation."

I made no objection to his wearing that badge. He carried it in a little leather case. When he showed this badge to me he did not wear it on his person nor on his shirt or coat. He came into my office two or three times a week, during all hours of the day, morning as well as afternoon. He at no time suggested to me that he was an official of the Government or an employee of the Government or that he was doing special work for the army or F. B. I.

I issued a special officer's commission to him. The commission being No. 106. I also issued a permit for him to carry a gun.

I know his general reputation in Olympia to be a law-abiding citizen to be good.

(Testimony of Roy L. Kelley.)

Cross Examination

By Mr. Sager:

I have on occasion talked to Mr. Wilson concerning Mr. Haid. I asked Mr. Wilson to pick up this permit when Mr. Haid was arrested.

Q. And do you remember telling Mr. Wilson that you issued that permit in a moment of weakness, or something to that effect?

A. Yes, I might have.

Q. That is the way you felt about it, wasn't it?

A. At the time, yes.

I reported to Mr. Wilson the incident concerning Mrs. Nelson. I do not recall that I said to Mr. Wilson that Haid was a fraud. Plaintiff's exhibit 2 is very similar to the badge he showed me when he first came to Olympia. I saw plaintiff's exhibit No. 1, later on. Not so long ago. That is not the one he showed me when he first got there.

Mrs. McConkey and Mrs. Highmiller complained to me about Mr. Haid.

Redirect Examination

By Mr. Johnson:

The reason I asked Mr. Wilson to pick up the permit was because Mr. Haid had been indicted.

THOMAS J. TAYLOR,

a witness, called on behalf of the defendant, after having been first duly sworn, testified as follows:

Direct Examination

By Mr. Johnson:

My name is Thomas J. Taylor and I am a physician and surgeon in Olympia, Washington.

I know that Mr. Haid's reputation for being a law-abiding citizen was good, and I know that his reputation for truth and veracity is good.

Cross Examination

By Mr. Sager:

Shortly after Mr. Haid came to Olympia, I had need of a private detective and asked Mr. Haid to do some investigating for me. I have talked to other people in Olympia about him because when I was going to hire Mr. Haid, I wanted to know that he would be competent and I inquired of the Prosecuting Attorney, Chief of Police and the Attorney General's office and several other people. It was upon those reports that I state his reputation is good.

Redirect Examination

By Mr. Johnson:

He never made any representation to me that he was connected with the Government. [46]

Recross Examination

By Mr. Sager:

I never saw him dressed in army clothes. He wore a brown pair of pants and a brown jacket and I would not say that he ever wore any army clothes.

LELAND P. BROWN,

a witness, called on behalf of the defendant, after having been first duly sworn, testified as follows:

Direct Examination

By Mr. Johnson:

My name is Leland P. Brown and I am Superintendent of Schools in Olympia.

I first met Mr. Haid in my office in Olympia in January, 1944. He fingerprinted about 2200 children in the school. This was a voluntary service on Mr. Haid's part and he never made any representations that he was a special agent for the Federal Bureau of Investigation but made it very clear that he was not. He never at any time represented himself to be anything but a private detective. [48]

BERTHA CAMFIELD,

a witness, called on behalf of the defendant, after having been first duly sworn, testified as follows:

Direct Examination

By Mr. Johnson:

My name is Bertha Camfield. I am the daughter-in-law of Laura Camfield and the mother of Wildabelle Sorrel.

The first time I saw Mr. Haid was when he came to our place. At that time he gave me his card

(Testimony of Bertha Camfield.)

which is similar to Defendant's Exhibit A-1. He said he thought he could find our daughter.

He didn't say anything about Haid's Detective Bureau other than to give me his card. But he didn't say anything about being connected with the Government, or with the Federal Bureau of Investigation or anything of that character. I gave him a picture of her at that time. Once later he came out with a girl named Vi. He asked where my mother-in-law was, I think, or where their place was or something as near as I can recall. He made some reports to my husband.

Cross Examination

By Mr. Sager:

We live in the house where my daughter had lived at the time she disappeared, which is just across the road from Mrs. Gross' place.

My husband was called to Mrs. Gross' several times in response to telephone calls from Mr. Haid.

The time Mr. Haid and Vi came out to see me and asked about my mother-in-law they then went to find her. She was not at home when he went to see her. He was trying to find her and she was not at home.

WALTER CAMFIELD,

a witness, called on behalf of the defendant, after having been first duly sworn, testified as follows:

Direct Examination

By Mr. Johnson:

My name is Walter Camfield. I am the father of Wildabelle Sorrel and the son of Laura and Clarence Camfield.

The first time I talked to Mr. Haid was on the telephone. Before that time I had been to the Prosecuting Attorney's office concerning my daughter. The first telephone call I had with him, he called over Mrs. Gross' telephone and said, "This is Mr. Haid of the Haid's Detective Bureau." He said he had seen the ad in the paper and wanted to know if I was her father and I said "yes." I told him I was interested in locating my daughter but was not interested in paying him the reward. My mother and son-in-law were doing that. I told him where he could locate my mother. I had several conversations with him after that and he made several reports to me. Said he had found a girl in Shelton answering my daughter's description but found later that it was not my daughter. He also told me he had been to Aberdeen on a hot tip and it was a false alarm. He reported to me once or twice a week for about two months. I gave pictures of my daughter to the Sheriff's office.

(Testimony of Walter Camfield.)

Cross Examination

By Mr. Sager:

Mr. Haid's reports were oral and made over the telephone and at my home. The first time he called me was [50] through Mrs. Gross' telephone. He did not say anything about working on the case to get a reward. He said he was interested in working on the case. He told me he had seen the ad in the paper. The first time he did not ask for any compensation or employment. I told him he would have to see my mother. She was the one who would pay the reward and I told him where my mother lived.

Whereupon Plaintiff's Exhibit 31 for identification was offered and admitted in evidence and marked Plaintiff's Exhibit No. 31.

I have been to Mr. Haid's office and saw a lot of fingerprint cards. He said he did a lot of work for the Government for Mr. Hoover at that time.

Q. Now, did you ever talk to your mother about this matter of Mr. Haid?

A. Naturally I would.

Q. How did she refer to Mr. Haid?

A. How did she refer to him?

Mr. Johnson: I object to that as being purely hearsay.

The Court: Objection will be overruled.

Mr. Johnson: How his mother referred to him out of the presence of the defendant?

The Court: Objection will be overruled, Mr. Johnson, exception allowed.

(Testimony of Walter Camfield.)

The Witness: Shall I answer that question?

The Court: Yes.

A. Okeh, she would always refer to him as a detective of the F.B.I. [51]

Redirect Examination

By Mr. Johnson:

I don't know who the fingerprints belong to. I believe he said, he was getting them out for Mr. Hoover. That was the only reference made to the fingerprints. I believe it was in March, 1944. The statement that my mother made about the Mr. Haid of the F.B.I. was made out of the presence of the Defendant.

Q. I mean, Mr. Haid was not present when your mother made that statement. A. No.

Mr. Johnson: That is all.

For the purpose of the record, I move that the statement that was made by the mother to him, how she referred to Mr. Haid to him out of the presence of the defendant, be stricken on the ground and for the reason it is hearsay.

The Court: The motion will be denied and exception allowed. [52]

LEVY JOHNSON,

a witness, called on behalf of the defendant, after having been first duly sworn, testified as follows:

Direct Examination

By Mr. Johnson:

My name is Levy Johnson and I am the acting

(Testimony of Levy Johnson.)

Prosecuting Attorney of Thurston County and have been such since the first part of 1943.

I have known Mr. Haid for nearly two years. When he first came to Olympia, he called on me and said he was opening a private detective agency in Olympia. Immediately thereafter he opened a private detective agency and he left some of his cards with me. Cards being the same as Defendant's Exhibit A-1.

I have seen the letter heads he used in his business. On two occasions he has done work for my office for which he was compensated and he gave a little assistance on other occasions. He was doing work for my office at the time this indictment was returned. He was doing some confidential work for me. At that time he was working in connection with a Federal Agency that I know of.

I know Mrs. Ruth McConkey and about the work he did in reference to the Mathwig children. Mrs. McConkey referred to him as a private detective and I told her if she hired Mr. Haid, she would have to pay him. I made it very clear to her that he was a private detective and that he was the same as any other private citizen. She would have to pay him for his services. I had several conversations in reference to the Mathwig children and he sent me written reports concerning his investigation. [53]

Defendant's Exhibit A-11 are some of the reports he made to me.

He worked on that case for a considerable pe-

(Testimony of Levy Johnson.)

riod of time. 30 days or so or probably more. A dependency hearing was had in reference to the children of evidence secured by Mr. Haid. An order was entered by the Superior Court for the delivery of the children who had been located in Portland and the Court instructed me to see that they were brought back to Olympia and a conference was held in my office between Mrs. Haid, Mr. Haid and Mrs. McConkey. I told Mr. Haid he could go for them and could say that he was representing my office and to contact the authorities in Portland.

He went to Portland and brought the children back. That was on August 17, 1943.

She referred to Mr. Haid at times and said that private detectives were expensive and cost plenty.

I know Walter Camfield who was in my office in reference to Wildabelle Sorrel. We had issued a warrant for her in the fall of 1943. This was issued after Mr. Camfield was in my office. One of the Camfields, I don't remember which one, spoke about a private detective. I talked to Mr. Haid on several occasions about the Sorrel case I mentioned that Walter Camfield was an old friend of mine and to go out and talk to him.

Mrs. Laura Camfield never called and asked if Mr. Haid was a F. B. I. man.

Mr. Haid did wear some light brown trousers but never wore a uniform of any kind and was always dressed in a business suit. Mr. Haid did wear some light brown trousers but I don't think they could

(Testimony of Levy Johnson.)

have been mistaken for army trousers. He wore a brown shirt but it was not like an army [54] shirt.

Mr. and Mrs. Haid worked on the Woodruff case and in connection therewith was requested to call the Pharmaceutical laboratory in St. Louis. I know his reputation for being a law-abiding citizen is good and his general reputation for truth and veracity is good.

Cross Examination

By Mr. Sager:

The Woodruff case was a criminal prosecution. Mr. Haid was employed by my office to investigate it. There was no connection between the Woodruff case and the Mathwig case. I believe the call to St. Louis was in December, 1943. We paid Mr. Haid for his work on the Woodruff case, including his expenses and his expenses would include the telephone call to the Pharmaceutical Company at St. Louis. That would not be a proper charge against the Mathwigs.

I referred the Camfield case to him. I did not know that a reward had been posted.

The case that he was working on at the time of the indictment started originally in my office. We figured it was really Federal work, and I asked Mr. Haid to take the evidence which he had secured, to the proper department in Seattle and submit it, and he did, and the department phoned me and then took over the case, and they asked Mr.

(Testimony of Levy Johnson.)

Haid to continue with them, as I understand. He was not working for the Federal Agency.

It was a matter that involved both Federal and State jurisdiction.

I believe I saw Mrs. McConkey before I knew Mr. Haid. She had been in to see me four or five times before going to see Mr. Haid and the dependency proceeding was a matter properly within the jurisdiction of my office.

I told Mr. Haid that when he got to Portland, that if he had any difficulty there, he could say that he was [55] representing my office I did not give him any credentials. [56]

WILMA D. HAID,

a witness, called on behalf of the defendant, after having been first duly sworn, testified as follows:

Direct Examination

By Mr. Johnson:

My name is Wilma D. Haid. I am the wife of Murrell F. Haid, the defendant. We have three children of the ages of six, eleven and twelve. We live in Olympia about two and a half years. We came from Los Angeles.

Mr. Haid worked as a guard at the Norris Stamping Company. Immediately before that, for the Navy Department at the Navy base near San Diego, as a guard. Before that he worked in Texas. We,

(Testimony of Wilma D. Haid.)

at one time operated a Detective Agency at Wichita Falls, Texas, for about two years, 1940 to 1942. It was called "Haid's Bureau of Investigation.

I have seen Plaintiff's Exhibit 2 and 3. We used them in Texas. The star in the center is there because most of the law enforcement officers at any point in Texas use a star on their badge as Texas is the lone star state. They were used for about three or four months in Olympia.

We left California because of my husband's health. The first place we lived at in Olympia was in the house we rented from Mrs. Lillibridge. No statement was made by Mr. Haid to Mrs. Lillibridge that he was in any way connected with the army. We lived in the Lillibridge house for about six months. We told Mrs. Lillibridge that we were opening a private detective agency and gave her the information for a special listing of "Haid's Detective Bureau." She made arrangement for the installation of the telephone. At no time did Mr. Haid tell Mrs. Lillibridge that he was [57] employed by the Government. I presume we did make a statement about having the house wired. We and our children kid one another and we may have said we had the house wired, but if we did it was only in jest.

When we first arrived in Olympia, we called on the Chief of Police, Mayor, Prosecuting Attorney's office and advised them that we were opening a private detective agency. We advertised in the newspapers.

(Testimony of Wilma D. Haid.)

Defendant's Exhibit A-2 is the ad we carried in the newspaper. Defendant's Exhibit A-1 is the cards we used as business cards. In addition to the newspaper, we ran an advertisement over a radio station, KGY.

We were called by Mrs McConkey and she stated that she had seen our ad in the newspaper and wanted us to do some work for her, in reference to her brother's two children. We went out to her house and she explained what she wanted. Thereafter we called on her many times. She called us on the phone many times and we submitted written reports to her in reference to our investigation of the Mathwig children. We also consulted with her attorney and the Prosecuting Attorney.

Defendant's E-11 are some of the reports we submitted.

We employed someone in Los Angeles in this investigation and statements were taken there. And on one occasion we went to Portland, after a hearing in Superior Court, to get the children. We were advised by the Prosecuting Attorney if we got into any difficulty in Portland about the children to call his office and were authorized to state that we were representing his office. Mrs. McConkey went with us.

On the return trip from Portland, we had a blow-out near Woodland and we stopped at Mr. Stuart's gas station for a new tire. Mr. Haid pulled out his folder which is Defendant's [58] Exhibit A-3, in which he carried a blue card and his badge. The

(Testimony of Wilma D. Haid.)

badge was similar to Plaintiff's Exhibit 2 and 3. There was nothing said by Mr. Stuart in which the words, Government marshal or F. B. I. were used. We received the tire from Mr Stuart and later sent him a ration certificate to cover it.

I knew Ralph Mathwig and his mother, Elizabeth Mathwig.

My husband never wore any Army pinks.

Q. These trousers he had were what?

A. They were uniform trousers from the——

Q. They were what?

A. They were trousers that he wore when he was a guard.

The light brown or tan trousers which Mr. Haid wore were purchased at a department store and so was the brown shirt. He always wore a regular suit coat and a civilian hat. The cap that appears in the picture on his identification card is not an Army cap. It was the uniform that the auxiliary military police wore down there. That is when that picture was taken.

Mrs. Mathwig told us about the unfinished hospital building and wanted to know if there was any way we could help her in getting the Government to complete the building. Mr. Haid said he would do what he could to offer the hospital to the Government on her behalf. We were not to receive any compensation for this work but Mrs. Mathwig was to pay the expenses. Mr. Haid told her the reason he was willing to do that was because he

(Testimony of Wilma D. Haid.)

had two sons and one daughter in the armed services.

We called Mr. Haid's father in St. Louis, Missouri, believing that he would help us with Senator Clark. We contacted Senator Clark at Washington, D. C., and Senator Wallgren.

Q. Now, which Champ Clark, do you mean, the father or the son?

A. This was the father.

Defendant's Exhibit A-14 and plaintiff's 24 and 25 is some of the correspondence. These letters were shown to Ralph Mathwig and his mother. Some pictures were taken of the building and were sent to Washington. [59]

An estimate of \$300.00 had been secured by Ralph Mathwig for the drawing of the plans. Mr. Haid suggested that he could get them drawn cheaper than that so he called Mr. Brown of Los Angeles, who said he would draw it for \$120.00. Later we paid him \$85.00 for the sketches and the blue prints. One set of the sketches and blue prints was sent to Washington, D C., one to Captain Mathwig and one to Elizabeth Mathwig. I believe Mrs. Mathwig paid for expenses, approximately \$195.00. I made up the statement which is Plaintiff's Exhibit 23 from our ledger sheets. I made a mistake in the cost of the call, \$6.20, that was made on December 15th. That should not have been in the bill. The statement is correct except for the \$6.20.

There was some information that Margaret Mathwig had been a user of narcotics and when we ad-

(Testimony of Wilma D. Haid.)

vised Mrs. Mathwig of that fact, she opened up Captain Mathwig's safe and took out a box of drugs which she asked us to look over. Both Ralph Mathwig and his mother said they had no use for these drugs and we did not know what they were. They wanted to get rid of them and we offered to dispose of the drugs and so we turned them over to Mr. Ed Sharpe.

He told us that they were of no use and had thrown most of them away. Neither Mr. Haid or I received any credit or goods for these drugs.

Mr. Haid said he was a Government man and could take these drugs. I never ever saw Mr Haid have a badge at the Mathwig place with the inscription "Department of Justice." Mr. Haid always carried the badge he had in his folder and never wore it on his coat or shirt. Mr. Haid never in my presence made the statement to the Mathwig's [60] that he was a Government man or supervisor at Fort Lewis.

We purchased one radio from Mr. Mathwig. The other two did not play so he gave them to us. He was told that we would attempt to repair them and give them to our children. They were in very poor condition.

Mr. Haid never made the statement that Fort Lewis had told him to pick up old radios.

I, at one time gave Mrs. Mathwig some red ration points. Mr. Haid never gave her any red points. I always carried the ration book. There may have been something said in jest at that time

(Testimony of Wilma D. Haid.)

by Mrs. Mathwig about our being government people giving away red stamps. I don't remember.

Mr. Haid bought his handcuffs a few months after we came to Olympia and did not have handcuffs before that. He later sold them to Elsworth Wood.

The first time we went to the Camfield's, I stayed in the car. Mr. Haid went into the house. I saw Mrs. Camfield on that occasion when she came out to the car. Mr. Haid told her that I worked with him on his investigations and was a better detective than he was. We called on Mrs. Walter Camfield in reference to the disappearance of her daughter, Mrs. Sorrel. Before we went to the Bertha Camfield house, we had no information concerning the reward advertisement in the paper. She told us they would not be able to finance finding the daughter, but that her mother-in-law, Mrs. Laura Camfield, had placed an ad in the paper as to \$100.00 reward. She asked if we would go and see her mother-in-law.

We also talked to Mr. Walter Camfield. Mr. Haid introduced himself to Walter Camfield as follows: "This is Haid of Haid's Detective Bureau of Investigation." We did considerable work on the Sorrel case, securing pictures of her, sending them to various law enforcement officers between Olympia and Los Angeles. We contacted a number of her acquaintances in Olympia, went to Shelton and Bremerton. We had information that she was in Bakersfield, California, and [61] conveyed that

(Testimony of Wilma D. Haid.)

information to the Camfield's. We located a girl in Shelton who answered her description but found out that it was not Mrs. Sorrel. We worked about four months on that case. At no time was the words F.B.I. ever used by Mrs. Laura Camfield.

Cross Examination

By Mr. Sager:

Q. Mrs. Haid, I understood you to say yesterday before the afternoon recess that Senator Clarke was the elder Clarke, the father?

A. I misunderstood Mr. Johnson's question. I thought he was asking about was it Mr. Haid or Mr. Haid's father.

When we operated in Texas I believe our letterhead was Haid's Bureau of Investigation. I don't recall whether it was Haid Detective Personal and Identification Bureau. The name of the bureau was Haid's Bureau of Investigation. The reports we sent to Mrs. McConkey from time to time are not on our letterhead, and our statements to Mrs. McConkey (defendant's Exhibit A-8) are not on our letterhead. They were accompanied by letters.

I made up the statement (plaintiff's exhibit 23) for Mr. Wilson on his second visit to our home. On his first visit he had requested us to submit vouchers in support of the items on our ledger sheet. I don't remember if I showed him the vouchers, but they were there. The vouchers consisted of the telephone bills received from the company. He had

(Testimony of Wilma D. Haid.)

asked for the vouchers because there was some question about the ledger sheet. Plaintiff's exhibit 23 is an accurate statement of expenses incurred by us for Mrs. Mathwig except one item.

Plaintiff's exhibits 14, 15 and 16 are statements we sent to Mrs. Elizabeth Mathwig. These bills were all paid. The first statement we sent to her, plaintiff's exhibit 14, is for \$170.31, it contains the item of \$120.00 for architect's fee. I remember that our ledger sheet had two items for the architect, an original one of \$50.00 and a later one of \$45.00 and then an additional \$10 for the plans and blue prints, making a total of \$105.00. The two items for architect's fees included a few other additional expenses. The \$25.00 item for gasoline and oil shown on plaintiff's 23 was not on the ledger sheet. We lumped that in with the telephone calls. The telephone calls shown on the ledger sheet included on occasions several telephone calls and gasoline and oil. We just put the gasoline and oil in with the telephone calls.

In connection with the Mathwig matter Mr. Haid first contacted his father in St. Louis. At a later date we contacted Senator Wallgren, and he asked for plans and specifications or blue prints on the hospital. We contacted Senator Wallgren by both mail and telephone. The telephone charges are shown on this exhibit (plaintiff's 23). After he asked for the blue prints we suggested to the Mathwigs that they could probably be obtained cheaper from Mr. Brown and then we wrote Mr. Brown and

(Testimony of Wilma D. Haid.)

told him what we wanted. We first telephoned him. Our first contact with Senator Wallgren was by telephone. In our first letter to Mr. Brown we enclosed a cashier's check for \$50.00. At a later time we sent him \$35.00. Plaintiff's exhibits 19 and 20 are letters we sent to Mr. Brown. Our first letter to him is dated July 2, 1943. According to plaintiff's exhibit 23 our first telephone conversation with Senator Wallgren was July 3, which would be after we wrote Mr. Brown asking for plans. I am not mistaken when I say Senator Wallgren asked us to get the plans before we took it up with Mr. Brown, but the dates of this statement, plaintiff's 23, and this letter, plaintiff's 19, do not bear me out, but it was at his request that we got them.

We were not to charge Mrs. Mathwig for our services, but were to be reimbursed for our expense. We never charged any of the hours on the Elizabeth Mathwig matter to Mrs. McConkey, although plaintiff's exhibit 8 contains the statement, "Mrs. McConkey, we have spent considerable time on the matter your mother took up with us and we have run a little of that time in with the time spent on the original matter." That doesn't mean we were charging for the time. The "original matter" was the McConkey matter. We knew Mrs. McConkey was acting in behalf of Captain Mathwig. We submitted statements to her about twice a month and they were paid promptly. The McConkey employment was our first employment in Olympia.

(Testimony of Wilma D. Haid.)

We did some work for Mrs. McConkey personally after August, 1943. Plaintiff's exhibit 7 shows the period of time for that work. It is dated January, 1943, but it should be January, 1944. It is the first statement we sent Mrs. McConkey for this additional work. It does not show any dollars or cents on it. The only time we sent a bill for this extra work was in June of 1944. In January or February, 1944, when Captain Mathwig was home, there was a conversation between him and Mrs. McConkey and us concerning the \$100.00 we had borrowed from her. At that time she asked for payment. We offered to give her a note for it, despite the fact that she owed us \$163.00 for this extra work. At one time Mrs. Mathwig asked us to pay her note and we told her we would pay her whenever her daughter paid us, so we were holding off both these loans, \$100.00 to Mrs. McConkey and \$175.00 to Mrs. Mathwig, against the \$163.00 which Mrs. McConkey owed us.

Redirect Examination

By Mr. Johnson:

I never kept any accurate record of the gas and oil expended in the Mathwig matter. We expended a lot more for gas and oil than we put on the bill. Our first work was the McConkey, Mathwig matter.

MURRELL F. HAID,

a witness called on behalf of the defendant, after having been first duly sworn, testified as follows:

Direct Examination

By Mr. Johnson:

My name is Murrell F. Haid. I am the defendant in this action.

Immediately before coming to Olympia, I was employed by the Norris Stamp Manufacturing & Stamping Company of Los Angeles, where I was a guard.

Defendant's Exhibit A-15 is a certificate of meritorious conduct from the Auxiliary Military Police of the United States Army.

Prior to that I was employed by the United States Navy as a guard at the new Navy base in Oceanside, California, where I worked approximately nine months to a year.

Prior to that I worked at the Ryan Aircraft Corporation at San Diego, as a guard and prior to that I operated the "Haid's Bureau of Investigation" at Wichita Falls, Texas.

Defendant's Exhibit A-26 are my transfer orders from one Naval District to another.

Defendant's Exhibit A-27 are my police cards issued to me by the police chief at Wichita Falls.

I operated a private detective agency there for approximately two years and used Plaintiff's Exhibit 2 and 3 in the operation of that business. We also used them in Olympia.

(Testimony of Murrell F. Haid.)

Q. Mr. Haid, are there other detective bureaus, private detective bureaus which use the word "Bureau of [64] Investigation?"

Mr. Sager: I object to the question.

Mr. Johnson: Well, the purpose of it is, your Honor, to show it is a common thing and I have an exhibit that I want to introduce, of the classified ad section of the telephone book to show there is a number.

The Court: The specific charge is not using the word Bureau of Investigation. It is only a series of action. I think I shall have to sustain the objection, Mr. Johnson.

Mr. Johnson: Exception, your Honor.

Plaintiff's Exhibit 1 and 11 are the badges we now use. I have used them since August, 1944.

When we arrived in Olympia we stayed in an auto camp and then rented the cabin of Mrs. Lillibridge's. No statement was ever made by me to her that I was an employee of the Government.

We have three children, six, eleven and twelve, and I have five children by another marriage. Two of my sons and one daughter is in the service.

I think something was said in jest that the house was wired in front of the children during one of Mrs. Lillibridge's visits, but it was more of a jest of the children than anything else.

I never owned any army pinks or army shirt. I do own a pair of tan slacks and a brown shirt, which I purchased in a department store in Los Angeles. I never wore a cap in Olympia. The pic-

(Testimony of Murrell F. Haid.)

ture on Exhibit 22 was taken when I was employed by the Norris Stamping Company of Los Angeles and was purchased in a department store. It is not in any way similar to an army cap. [65]

In the spring of 1944, I finger printed approximately 2500 school children on cards furnished by the Federal Bureau of Investigation and sent them to the Federal Bureau of Investigation at Washington, D. C.

Defendant's Exhibit A-28 for identification is a news item regarding the proposed plan of taking the finger prints.

The same was offered in evidence and admitted without objection and marked Defendant's Exhibit A-28.

I met Mrs. McConkey about the 23rd of April, 1943, and was employed by her as a private detective to investigate the matter of Margaret Mathwig and the Mathwig children. I never represented to her that I was in any manner connected with the army or was employed in any capacity with the Government.

I made a trip to Portland with her and Mrs. Haid with the purpose of returning the two Mathwig children on a Court order issued by a Superior Court of the State of Washington and for Thurston County. I was authorized by Levy Johnson, Prosecuting Attorney of Thurston County, to inform the authorities in Oregon that we were representing his office.

On the way down I had a blow-out and I stopped

(Testimony of Murrell F. Haid.)

someone with my badge. I had tried to stop several cars previously, and no luck. So, I used the badge to stop another motorist. I explained to him our predicament, let him read my badge and identification card, and he was more than willing to help us in getting going again.

I had correspondence with Captain Mathwig and Defendant's Exhibit A-29 for identification are letters and telegrams which were sent to Captain Mathwig.

Whereupon the same was offered and admitted in evidence without objection and marked Defendant's Exhibit A-29.

Defendant's Exhibit A-30 for identification are the letters I received from Captain Mathwig. [66]

The same were offered and admitted without objection and marked Defendant's Exhibit A-30.

On the way back from Portland, we had a flat tire and stopped at Mr. Stuart's garage. I informed him that we needed a tire and presented my private detective credentials which consisted of badge, Plaintiff's Exhibit 2 or 3 which read Haid's Bureau of Investigation and a blue card showing my name and business. He had a full opportunity to examine my badge and identification card.

I told him we had been to Oregon to secure the children, and had no ration certificate to purchase a tire, but that if he desired I would phone the secretary of our ration board to confirm that I would be given a ration certificate upon my return to

(Testimony of Murrell F. Haid.)

Olympia to cover him on a sale of a tire to me, in order to get the children home that night.

Q. What did he say to that?

A. He said he would, he said he would take that chance.

I never made any statement to him that I was a United States Marshal or a Special Agent of the Department of Justice or the Bureau of Investigation. I never in any way represented myself to be an officer or an employee of the United States. I never heard him make any statement to the effect that if the Government got after him, he probably would have to go after one of Uncle Sam's men.

I never had any intention to defraud Mr. Stuart. I paid for the tire and sent him the ration certificate as I promised.

I had borrowed \$100.00 from Mrs. McConkey, offered to give her a note and told her we would repay her as soon as [67] we got our money from an outstanding account in San Francisco. We later did some work for Mrs. McConkey on which she owes us \$163.00. I have never paid her the \$100.00 and she has not paid the \$163.00 she owes me.

I know Mrs. Elizabeth Mathwig and I tried to assist her in offering the incomplete hospital building to the Government and in furtherance of the offer, I phoned my father who was a friend of Senator Clark in Missouri and phoned Senator Wallgren on several occasions and had some correspondence with him. At the suggestion of Senator Wallgren, I took some photographs and sent to him

(Testimony of Murrell F. Haid.)

and secured the services of Mr. Elmer Brown of Los Angeles to draw a sketch, plans and blue prints for which I paid him \$85.00. We were not to be paid for our work but were to be reimbursed for any expenses that were incurred. That is all we received from the Mathwig's.

I had no intention to defraud Mrs. Mathwig or Ralph Mathwig, her son. I saw Mrs. Elizabeth Mathwig on several occasions during the investigation of the Mathwig children and I did say to her in a jesting manner, we would handcuff her to the bed so she could sleep. I did on one occasion when Ralph Mathwig asked me what kind of a gun I carried, show him my gun. I never made the statement that I had the gun cut down at Fort Lewis.

Defendant's Exhibit A-31 for identification is the check I gave Mr. Lutch for changing the barrel on my gun.

The same was offered and admitted without objection and marked Defendant's Exhibit A-31.

I never did display a badge with the inscription "Department of Justice." I have never owned such a badge. [68]

It had been suspected that Margaret Mathwig had been a user of drugs. This information was known to Mrs. Mathwig and she showed us the box of drugs and asked us to dispose of them and I took them to Ed Sharpe's pharmacy and asked him to dispose of them. I received no money or credit for the drugs from Ed Sharpe.

I did receive some radios from Ralph Mathwig.

(Testimony of Murrell F. Haid.)

I paid for one of them and two of them were of no value whatsoever and he gave them to me. I did not tell him that Fort Lewis had told me to pick up old radios. I never ever told Ralph Mathwig that I was employed by the Government or worked for the Army or that I held any office in the Government or that I was a Special Agent of the Federal Bureau of Investigation.

I know Mr. and Mrs. Walter Camfield. I met them about the 1st of April, 1944, when I went to see them at the suggestion of Mr. Levy Johnson, concerning the disappearance of Wildabelle Sorrel. On my first visit, I met Mrs. Camfield. Prior to that time I had not seen this ad in the Olympia paper with reference to the reward. We first heard about it from Mrs. Camfield. I introduced myself as Haid from Haid's Detective Bureau and gave her one of my cards. The first contact I had with Mr. Camfield was over the telephone which was after my visit to the Camfield home and I introduced myself as Haid of the Haid's Detective Bureau. He said his mother was taking care of the financial end and suggested that I see her. He gave me her address and Mrs. Haid and I went out to see Mrs. Laura Camfield, his mother, and she agreed to pay us \$100.00 for our efforts to locate Wildabelle Sorrel. In my conversation with Mrs. Laura Camfield, no mention was ever made of the F.B.I., nor were the words F.B.I. ever used. She did ask me how many detectives there [69] were in Olympia and I told her three, my wife, Hollis

(Testimony of Murrell F. Haid.)

Fultz and myself. I never had any intention whatsoever to defraud Mrs. Camfield and we did considerable work to locate Wildabelle Sorrel.

I am acquainted with Mrs. Gross. My first conversation with her was over the telephone. I told her I was Mr. Haid of Haid's Detective Bureau and contacted her for the purpose of securing information regarding Wildabelle Sorrel. I was at her home on one occasion and on that occasion I introduced myself to her as Haid of Haid's Detective Bureau and showed her my identification card and badge. I showed her boy my gun when he asked me if I was a real detective and if I carried a gun. I never made any statement concerning the F.B.I. or were the words F.B.I. used.

I turned over all my files in the Mathwig and McConkey cases to Mr. Wilson of the Federal Bureau of Investigation.

Cross Examination

By Mr. Sager:

I was convicted once on a misdemeanor in California on a N.S.F. check.

Before coming to Olympia I was employed by the Norris Stamp Company as a guard and as a guard for the Navy-Marine base at Oceanside and was employed by the corporation and not by the Government.

I wore a uniform which consisted of a shirt, trousers and octagon shaped cap. The pictures on my credentials were taken when I was working as a

(Testimony of Murrell F. Haid.)

guard in California. [70] We occasionally take pictures in our work. I did not take my own picture to use in these credentials because we did not have a camera. I am still using the same picture on my credentials.

We changed our badge and card after Mr. Wilson first called on me. We changed our identification card from Bureau of Investigation to Detective Bureau because there are certain classes of people that don't construe the word "investigation" with "detective" work. We were after business and that was one of the reasons we changed it. We talked with Mr. Wilson about the effect of the phrase "Bureau of Investigation" on our credential card and I told him that in war time I could see where that might be confusing. I may have ordered the new cards the night or evening after the first call of Mr. Wilson, but I had been conversing with the printer regarding new identification cards prior to Mr. Wilson's visit. We sent copies of the finger prints we took of the children in Olympia to the Federal Bureau of Investigation. It is common practice for any agency taking finger prints to send them in to the Federal Bureau of Investigation. No special permission is needed from the bureau to take finger prints and send them in.

Q. Now, on your first—by the way, on this trip down to Portland, and I understand from your testimony you had this flat tire on the way down and you attempted to stop several passing motorists to get a jack? A. Yes.

(Testimony of Murrell F. Haid.)

Q. And didn't have success? A. No.

Q. And then you held out this badge and flagged them down with the badge? A. Yes, sir.

Q. And that worked? A. Yes, sir.

Q. Why did you pull out the badge to flag them down, Mr. Haid?

A. That was one means of stopping a motorist, explaining to him or her, whichever the case may have been, our predicament and getting assistance by using the jack, and being on our way.

Q. How did you think the badge would aid in stopping a motorist when your other efforts had been unsuccessful?

A. Well, the badge is indicative of a law enforcement officer.

Q. And that is what you were attempting to represent, were you not?

A. I was a special officer of the City of Olympia.

Q. But, you pulled out the badge to stop passing motorists, and used the badge to indicate you were some law enforcement officer?

A. To receive assistance.

Q. Is that right? You did not think the passing motorist would observe you with merely a private detective badge when you flashed the badge?

A. I didn't think he could observe I was any special type of an officer at all.

Q. Your authority to go down to Portland through Mr. Levy Johnson, did not give you au-

(Testimony of Murrell F. Haid.)

thority to regulate traffic or stop anybody on the highway?

A. I was not trying to regulate traffic.

Mr. Johnson: Object.

The Court: Objection overruled.

Q. You were trying to stop passing motorists?

A. I was trying to gain assistance.

Q. By using your badge? A. Certainly.

During the conversation with Mr. Stuart, I told him we had been in Oregon to pick up the children and I showed him my credentials.

We received some information from Los Angeles that Margaret Mathwig had been a user of drugs. I informed Mrs. Mathwig and she showed me the box of drugs that came out of the safe. I gave them to Mr. Sharpe and I asked him to dispose of them as he saw fit. He was a druggist and was in a better position to do that, than I. Mrs. Mathwig had asked me to dispose of them and not leave them on the farm. I had examined the drugs but I knew nothing about them. [71]

Plaintiff's exhibits 14, 15 and 16 are statements to Mrs. Mathwig and they represent the entire charges to her. The first one is for \$170.00, the next one is for \$18.80, and the last one is \$7.75. The total being roughly \$197.00, and plaintiff's exhibit 23 is intended to cover the same expense. This was made up by us at Mr. Wilson's request to verify the items on our ledger sheet. It was given to Mr. Wilson as a corrected account on the Mathwig deal. The last of our bills to Mrs. Mathwig (plaintiff's exhibit

(Testimony of Murrell F. Haid.)

16) is dated August 1, 1943, and that was the last item of expense to her. There are six items on this yellow sheet, plaintiff's 23, which bear dates subsequent to August 1. The only explanation I can give as to how these six items dated subsequent to August 1 could be incorporated in the three statements, which all preceded August 1, is that there would be a typographical error on the date. The McConkey file was turned over to Mr. Breckenridge of the Federal Bureau of Investigation. I gave Mrs. McConkey a statement for her income tax.

Redirect Examination

By Mr. Johnson:

When Mr. Vargo arrested me, he and Mr. Breckenridge searched through all my files and took whatever they desired. [72]

P. C. KIBBE,

a witness, called on behalf of the defendant, after having been first duly sworn, testified as follows:

Direct Examination

By Mr. Johnson:

My name is P. C. Kibbe. I live at Tenino and I am regularly licensed to practice law in the State of Washington. I have practiced law in the State since 1899.

(Testimony of P. C. Kibbe.)

About a week ago I called on Mr. and Mrs. Camfield. I asked her the question "Were the words F. B. I. ever used by Mr. Haid in her conversation with him," and she answered, "there had not been." She also stated that Mr. Haid never represented himself to be an F. B. I. agent.

Cross Examination

By Mr. Sager:

I have known Mr. Haid for about a year and a half and employed him on a few occasions.

He has shown me his blue credential card.

Q. Do you remember a conversation he had with you at one time when he showed you this blue card and said he thought he had better have Bureau of Investigation changed.

A. Yes, he did tell me that. He said he was afraid that it—well, he thought it would be better for his business to change that, and I guess it was partly at my suggestion because I approved it, that he did it.

Q. Well, he thought it would be better for his business, didn't he, because he said they might confuse that with the Government?

A. No, I don't think so.

Q. And if they did, they might not pay him his fee?

A. No, nothing of that kind ever discussed.

He never said that he should change his name because they might confuse it with the Government. That was not discussed. I never made any

(Testimony of P. C. Kibbe.)

statement to Mr. Wilson in reference to the change of name of Mr. Haid's business. [73]

Redirect Examination

By Mr. Johnson:

When Mr. Wilson called on me, I gave him a full showing of cases that I had had for Mr. Haid and all the cards that he had given me.

I told Mr. Wilson that Mr. Haid had introduced himself to me as Haid of Haid's Detective Bureau.

JOSEPH RICHARD GIBBONS,

a witness, called on behalf of the defendant, after having been duly sworn, testified as follows:

Direct Examination

By Mr. Johnson:

My name is Joseph Richard Gibbons and I am manager of the telephone office at Olympia. Defendant's exhibit A-18 is the original record of the telephone company in connection with Olympia telephone number 31F2. The record indicates that that 'phone number was assigned to Mr. Haid. The application for that number was made by a person who signed it Mary Gowan Lillibridge.

Cross Examination

By Mr. Sager:

As far as Mr. Haid's service is concerned the number was later changed to Olympia 5700. That is at a different address and a different telephone. This exhibit is Mr. Haid's record card. [74]

At the close of all the testimony, the following proceedings were had and motions made.

Mr. Johnson: I would like to renew my motions as made at the close of the Government case as to each count, individually, and it may be understood the motion is made as to each count.

The Court: It will be so understood. The motion is denied and exceptions allowed, and you may adjourn court until ten o'clock Monday morning.

Copy of Appellant's Proposed Bill of Exceptions received this 1st day of September, 1945.

J. CHARLES DENNIS,
District Attorney
HARRY SAGER,
Assistant U S. District
Attorney. [75]

United States District Court, Western District of
Washington, Southern Division

No. 15668

UNITED STATES OF AMERICA,
Plaintiff,

vs.

MURRELL F. HAID,
Defendant.

CERTIFICATE

I, Charles H. Leavy, United States District
Judge, sitting as judge of the United States District

Court for the Western District of Washington, Southern Division, and the judge before whom the trial above-entitled cause was conducted, do hereby certify:

That the attached Bill of Exceptions, consisting of the Appellant's Proposed Bill of Exceptions in one volume, and the Appellee's Proposed Amendments to the Appellant's Bill of Exceptions in one volume, contain all of the proceedings had, all of the evidence offered, admitted or adduced at the trial of said cause, together with all exceptions taken, which are applicable to the question raised upon this appeal, and said Bill of Exceptions, as amended, is hereby settled, allowed, certified, and filed as a true and correct Bill of Exceptions in said cause, and is hereby made a part of the record therein.

Done in Open Court this 15th day of November, 1945.

CHARLES H. LEAVY,
United States District Judge.

[Endorsed]: Filed Nov. 15, 1945.

In the United States Circuit Court of Appeals
for the Ninth Circuit

No. 15668

UNITED STATES OF AMERICA,

Respondent,

vs.

MURRELL F. HAID,

Appellant.

ASSIGNMENT OF ERRORS

The appellant, Murrell F. Haid, hereby respectfully says, that in the record of the proceedings before the District Court for the Western District of Washington, Southern Division, before whom the above cause was tried, manifest errors occurred to his prejudice, and that he hereby assigns the following errors, which he avers occurred:

1. That the District Court erred in admitting in evidence, over the objection of the defendant, and erred in refusing to grant the motion to strike the testimony of the witness Stuart on the grounds that the same was incompetent and opinion evidence and not within the issues of the indictment on Count 5.

Q. (By Mr. Sager): Did he say anything to you about being a Government man?

A. Well, I am not going to state that he said he was a Government man right out, but he made indications to believe—I thought he was a Government man from his identifications from the Bureau

of Investigation. That was the first anything has been said about the Government.

Mr. Johnson: If the Court please, I move that be stricken and I object to the question, for the reason that we are charged in the Indictment with having represented to be a United States Marshal, and obviously, in view of the answer now of the witness, that is not in conformity with the charge with which we have been charged.

Mr. Sager: We will get to that.

Mr. Johnson: I think we are entitled to have strict proof on it.

The Court: Your motion will be denied at this time.

Mr. Johnson: Exception.

Q. Did you believe he was a Government man?

A. I did.

Mr. Kibbe: Now, I move that be stricken, what he believed. What Mr. Haid had told him is the only thing that would justify that, what he believed. He might believe I was President of the United States and I would not be.

The Court: I think the rule would be different, Mr Kibbe, in this particular charge on this count—where this is one of the counts. I shall have to overrule your objection and allow you an exception.

Q. What was your belief as to what capacity and what he was acting as, as a Government man?

A. Well, my belief, if I seen a star, would mean a man was a law enforcement officer, and naturally bound to be a marshal or police of some kind. I

think anybody with any common reason would think the same thing.

Q. What was your actual thought about it, what did you think he was?

A. I thought he was a marshal.

Mr. Johnson: May my objection go to all this testimony?

The Court: Yes.

A. (Continuing): From the reading on his badge, and that is all I paid any attention to, that part of the badge convinced me in selling the tire in truth he was a Government man.

Q. What did you say?

A. I figured he was a marshal, naturally.

2. That the District Court erred in admitting in evidence over the objection of the defendant, that the same was incompetent and opinion evidence the testimony of the witness Ralph Mathwig:

Q. (By Mr. Sager): Mr. Mathwig, what did you believe of Mr. Haid's capacity—or,——

Mr. Johnson: If the Court please, object to that, on the ground that it is incompetent and not the proper basis on which—that the testimony is purely a matter of opinion, and the ultimate question to determine is what the facts were, and that matter is for the jury to determine.

The Court: Yes, the jury will finally have to determine the question of whether or not this person parted with any property or anything on the belief and on the representation of—what he believes of course is not conclusive of what the fac-

tual matter is or was. However, he may answer the question and exception allowed.

Mr. Johnson: Exception.

Q. The question is, Mr. Mathwig, what did you believe Mr. Haid to be?

A. Well, after Mr. Haid asked me whether my sister had told me about whether he worked for the Government or not, and he showed me the badge, why I took him for a Government employee.

Q. You took him for what?

A. I took him for a Government employee.

Q. Did you take him for any particular Government employee?

A. By the badge, I took him he represented the F. B. I.

Q. The words "Department of Justice" suggested that to you? A. Yes sir.

Q. Would you have let him take these drugs if you had not thought he was a Government man?

A. No, I would not, because I figured we would be responsible.

3. The District Court erred in admitting in evidence over the objection of the defendant and erred in denying the motion to strike testimony of the witness Elizabeth Mathwig:

Q. (By Mr. Sager): Did Mr. Haid tell you why he was examining the drugs?

A. Well, he gave us to understand that he was a Government man.

Mr. Johnson: I move that be stricken.

Q. Well, what did he say?

Mr. Johnson: Just a moment.

A. That is so long ago——

Mr. Johnson: Just a minute, Mrs. Mathwig.

The Court: I will overrule your objection, Mr. Johnson.

A. I couldn't tell you the exact words.

Mr. Johnson: Exception.

4. The District Court erred in admitting in evidence over the objection of the defendant, the same as incompetent and calling for a conclusion the testimony of Elizabeth Mathwig.

Q. (By Mr. Sager): What did you believe as to Mr. Haid's occupation or employment?

Mr. Johnson: Just a minute.

A. Well——

Mr. Sager: Just a moment.

Mr. Johnson: There is no testimony here whatsoever that Mr. Haid made any representation to Mrs. Mathwig concerning his being connected with the Government in any degree, and certainly now she may have formed an impression of what somebody else may have told her. That now, is not competent evidence and is objected to on that ground.

The Court: Of course, she will understand—the witness understand what she believed or what she thought at that time, and not what she thinks now. The question is limited to that extent. The objection will be overruled and exception allowed.

Q. At the time, Mrs. Mathwig—at the time Mr. Haid was coming out to your place, what did you believe was his occupation?

A. That he was a Government man.

Q. Would you have permitted him to take the drugs if you had not believed him to be a Government man?

Mr. Johnson: Object to that.

A. No, I wouldn't.

The Court: Whenever there is an objection, you wait.

Mr. Johnson: Object to this on the basis there is no testimony now in evidence, so far as Mrs. Mathwig is concerned, of any impression she received from Mr. Haid himself or any misrepresentations on his part as to the fact that he was not—that he was employed by the Government in any confidential capacity.

The Court: Objection will be overruled, Mr. Johnson. Exception allowed.

Q. Would you have entered into this arrangement with him for the attempt to reconvert the hospital if you had not thought he was a Government man?

Mr. Johnson: Object to that, if the Court please, on the same ground.

The Court: Same ruling.

A. No, you wouldn't do this to a perfect stranger.

Q. Would you have loaned him the \$170 on the note? A. No, I wouldn't, neither.

Mr. Johnson: Same objection.

The Court: Same ruling.

5. The District Court erred in admitting in evi-

dence over the objection of the defendant, the same was incompetent and calling for conclusion of the testimony of the witness Clara Gross:

Q. (By Mr. Sager): I want to show you Plaintiff's Exhibit 2 and ask you if that is the badge or similar badge to the one he showed you at that time?

A. Well, I couldn't say, but it looks like it. I saw Bureau of Investigation, and I thought it was Federal Bureau of Investigation. It looked like it to me, it had on it Federal Bureau of Investigation.

Mr. Johnson: Object as calling for a conclusion.

The Court: Objection will be overruled.

Mr. Johnson: Exception.

6. The District Court erred in admitting in evidence over the objection of the defendant that the same was incompetent and hearsay, the testimony of the witness Walter Camfield.

Q. (By Mr. Sager): Now, did you ever talk to your mother about this matter of Mr. Haid?

A. Naturally I would.

Q. How did she refer to Mr. Haid?

A. How did she refer to him?

Mr. Johnson: I object to that as being purely hearsay.

The Court: Objection will be overruled.

Mr. Johnson: How his mother referred to him out of the presence of the defendant?

The Court: Objection will be overruled, Mr. Johnson, exception allowed.

The Witness: Shall I answer that question?

The Court: Yes.

A. Okeh, she would always refer to him as a detective of the F. B. I.

* * *

Q. I mean, Mr. Haid was not present when your mother made that statement. A. No.

7. That the District Court erred in denying the following motions made by the defendant at the close of the Government's case to-wit:

Mr. Johnson: The defendant moves the Court for an order to withdraw from consideration Count One of the indictment—consideration of Count One of the indictment from the jury and dismiss the Count One of the indictment for the reason and upon the grounds that there is not sufficient evidence submitted to justify the submission of said Count One to the jury, and that there has been a failure of proof on the part of the government to sustain the charge made in Count One of the indictment.

Count Two—I might say I make the same motion as to Count Two; that it be withdrawn from the consideration of the jury, and the count be dismissed.

The same motion as to Count Three.

The same motion as to Count Four.

The same motion as to Count Five.

The same motion as to Count Six; and

The same motion as to Count Seven.

The Court: I am not going to ask you to argue them now, but I think I will let you check up. Well, instead of bringing the jury in at 9:45, I will have the jury brought in about 10:00 or a little after, and give you an opportunity to present concisely. Whatever argument you have that applies to Count One applies on the others, except as to Count Two, that is drawn under a different phase, and I want to say at this time the motion is well taken as Count Two, but I am not going to definitely decide——

Mr. Sager: Count Seven is also drawn under the other phase of the statute.

The Court: Count Seven alleges that by reason of such assumption and pretense he acquired the camera. I had not noticed Count Seven close enough to make that distinction. Yes, it is, Count Seven does fall under the first subdivision.

Mr. Johnson: I think that is right.

The Court: The proof as to Count Seven, though, Mr. Johnson and Mr. Kibbe, and Mr. Sager, I will state to you is much stronger than the proof on Count Two, but I have carefully made notes and I do not think I will put the Court Reporter to the difficulty of getting out the testimony of the witness on Count Two because I have it pretty carefully noted. However, I would like for the purpose of expediting this, I would like to dispose of these matters before we bring the jury in. Otherwise I shall feel inclined to dispose of them in the presence of the jury, with proper in-

structions safeguarding it, but I prefer to do it in the absence of the jury.

* * *

Mr. Johnson: May it please the Court, with reference to the statement that the Court made, just one other count that I would like to present some argument to the Court on and that is Count 5. That is the Stuart transaction.

* * *

The Court: I shall have to deny your motion in regard to Count 5, as well as all of the other counts with the exception of Count 2, I think it is, and I will hear from you, Mr. Sager, on Count 2, and an exception will be allowed.

* * *

The Court: Now, before we proceed further and take testimony, I desire to state that I just read the transcript that covers Count 2, and from a reading of it I am satisfied that it presents an issue of fact, and will therefore have to rule adversely on your motion, Mr. Johnson.

Mr. Johnson: May the record show an exception.

The Court: Yes, now, you may proceed.

8. The District Court erred in refusing to grant the defendant's motions as made at the close of all the testimony as follows, to-wit:

Mr. Johnson: I would like to renew my motions as made at the close of the Government case as to each count, individually, and it may be understood the motion is made as to each count.

The Court: It will be so understood. The motion is denied and exceptions allowed, and you may adjourn court until ten o'clock Monday morning.

9. That the District Court erred in refusing to grant the defendant's motion for a new trial.

10. That the District Court erred in refusing to grant the motion of the defendant for a mistrial when advised that one of the jurors was acquainted with one of the Government witnesses at the time the following took place:

The Court: Will Counsel step up here a moment.

Now, then, for the record, I have been informed during the intermission that one of the jurors, Mrs. McCool, has identified one of the Government witnesses when such witness appeared here in Court, though at the time Mrs. McCool was interrogated, she had no knowledge of her acquaintanceship with such witness, not identifying her by name and for that reason, I am going to interrogate Mrs. McCool further on voir dire.

Mrs. McCool, you live in Olympia?

Mrs. McCool: Yes, sir.

The Court: And this lady, Mrs. Mathwig, the elderly lady who has not yet testified, do you know her?

Mrs. McCool: I know her, yes.

The Court: Did you know her by name?

Mrs. McCool: I did not. I did not know her name.

The Court: What is the nature of your acquaintanceship?

Mrs. McCool: About eight years ago she came to my house to purchase some chrysanthemum plants, and since then I probably have seen her probably a half a dozen times on the street, and she would ask me how my flowers were, and that is all the acquaintance I have had with her.

The Court: Would that acquaintance in any way be a factor in your acting as a juror in this case?

Mrs. McCool: No, it would not.

The Court: Would you give any greater weight or consideration to her testimony because of the fact that these matters have occurred in the past—that is, the purchase of some plants from you, a speaking acquaintance when you passed, would that cause you to give greater weight to her testimony than you would to anyone else?

Mrs. McCool: No, it would not.

The Court: Are you sure that you could decide the case upon the evidence just as fairly and impartially as though that occurrence had never taken place?

Mrs. McCool: I certainly could.

The Court: Any questions you want to ask, Mr. Johnson?

Mr. Johnson: No questions I can think of, your Honor.

Mrs. McCool: As far as the case itself is concerned, I have never heard it, only what I have heard in the courtroom here.

The Court: That is all, I just wanted to have the record clear.

Mr. Johnson: May it be understood I may make my motion at a later time—it may be considered at this time so that we won't take time to——

The Court: Yes, now, you may proceed.

And That Thereafter the Following Took Place:

Mr. Johnson: Now, if the Court please, it having come to the attention of the Defendant and his Counsel that one of the jurors was somewhat acquainted, according to the interrogation by the Court, with one of the witnesses, now I move for a mistrial, for the reason and upon the ground that had the Defendant been advised of, or had known that this juror was acquainted with one of the witnesses for the Government, he would have challenged the juror and exercised one of his peremptory challenges.

The Court: I shall have to deny your motion, Mr. Johnson, because the interrogation by the Court made a short time ago, indicates that this juror would in no manner be influenced by reason of this very superficial acquaintanceship she had with a witness. The juror was not even identified by name, when the name was read in voir dire examination of the juror.

It is true that Counsel for the Defendant exercised, I think, only one peremptory challenge, and there is even the probability that Counsel would have exercised a peremptory challenge in this case. I am not prepared to say that they would. This juror, though, under interrogation by the Court,

in every respect qualified as a fair and impartial juror.

However, I do feel that if Counsel for the Defendant and the Defendant are of the opinion that they would desire to proceed with this case with eleven jurors, and waive their Constitutional right to twelve jurors, that I would give consideration to an application to excuse such juror, but I am not making that as a condition.

Mr. Johnson: If the Court please, I cannot now say to the Court I have any authority to waive any rights, so far as the Defendant is concerned, without consulting him in that regard.

The Court: You may do that during the noon intermission. The Court, however, is perfectly satisfied that this juror is a fair and impartial juror, just as much so as a juror can be, and I would not be warranted in declaring a mistrial. I might even find myself thrust into former jeopardy, because the jury has been sworn to try the cause and empaneled, and the cause has been on trial for two days.

Mr. Johnson: May the record note our exception to the Court's ruling?

The Court: Yes.

Respectfully submitted,
BERTIL E. JOHNSON,
Attorney for Murrell F. Haid, Defendant-Appel-
lant herein.

Copy of Assignment of Errors received this 1st
day of September, 1945.

J. CHARLES DENNIS,
District Attorney.

HARRY SAGER,
Assistant Attorney.

[Endorsed]: Filed Sept. 1, 1945.

[Endorsed]: No. 10978. United States Circuit
Court of Appeals for the Ninth Circuit. Murrell
F. Haid, Appellant, vs. United States of America,
Appellee. Transcript of Record. Upon Appeal
from the District Court of the United States for
the Western District of Washington, Southern Di-
vision.

Filed: January 31, 1946.

/s/ PAUL P. O'BRIEN,
Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

In the United States Circuit Court of Appeals
for the Ninth Circuit

No. 10978

MURRELL F. HAID,

Appellant,

vs.

UNITED STATES OF AMERICA,

Appellee.

STATEMENT OF POINTS ON APPEAL

Comes now the appellant and adopts his Assignments of Error heretofore filed herein as his points on appeal.

/s/ BERTIL E. JOHNSON,

Attorney for Appellant.

Copy received this 8th day of February, 1946.

J. CHARLES DENNIS,

United States Attorney.

By FRANK HALE,

Assistant U. S. Attorney.

[Endorsed]: Filed February 11, 1946. Paul P. O'Brien, Clerk.

[Title of Circuit Court of Appeals and Cause.]

ORDER ELIMINATING EXHIBITS FROM
PRINTED TRANSCRIPT

Good cause therefor appearing, It Is Ordered that the original exhibits in above cause need not be printed in the printed transcript of record, but will be considered by the Court in their original form.

FRANCIS A. GARRECHT,

Senior United States Circuit

Judge.

Dated: San Francisco, Calif., Feb. 13, 1946.

[Endorsed]: Filed February 13, 1946. Paul P.
O'Brien, Clerk.

